

JPRS-UST-92-011  
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# ***JPRS Report***

# **Science & Technology**

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***Central Eurasia:  
Science & Technology Policy***

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## Central Eurasia: Science & Technology Policy

JPRS-UST-92-011

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2 November 1992

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### **Super Borehole Project To Continue With State Support**

937A0003A Moscow *DELOVOY MIR* in Russian  
8 Sep 92 p 10

[Interview with Candidate of Technical Sciences David Guberman, director of the Kola Geological Prospecting Expedition of Superdeep Drilling, by an ITAR-TASS correspondent; date and place not given: "What Lies There, in the Depths of the Earth?"—first three paragraphs are DELOVOY MIR introduction]

[Text] The Kola Geological Prospecting Expedition of Superdeep Drilling has acquired the new status of a scientific production center. The borehole itself is also appearing in a different aspect than before: It has become an international geological and geophysical laboratory.

The changes in the deepest hole on the planet reflect its importance for the earth sciences, which has increased and has been recognized throughout the world. Not by chance have specialists from many western countries become frequent visitors here in recent times. Here the delegations of experienced geologists, who come to the Arctic to study the unique experience of the Kola drills, are also common.

What is the purely practical significance of the making of the hole? Candidate of Technical Sciences David Guberman, director of the new scientific production center, answers this and other questions of an ITAR-TASS correspondent.

[Guberman] The fact that we have learned to drill such holes is itself an outstanding technical achievement. After all, for the present no one else has succeeded in penetrating the depths to the level of 12,268 meters [m].

During the drilling the hole "tapped" a rich ore-bearing bed. This helped our neighbors, geologist prospectors, to find not far away several deposits of copper-nickel ore, which is so necessary for ensuring the stable operation of the Pechenganikel Combine, the largest in the region. Our economists once calculated the conditional economic impact from the drilling of the hole. It turned out that we had already covered all the expenditures on it 25 times over.

As for the scientific contribution, the large amount of information, which was obtained in the process of drilling and studying the hole, refutes many fixed basic ideas about the earth's crust, including the idea of its lit-par-lit structure. We "moved back" the age of life on earth by nearly 1 billion years. Completely unique materials on deep-seated gas were obtained. Moreover, the classical approaches to the drilling of vertical holes were refuted. According to all the premises our drilling should have been vertical. But it seemed that the end of the hole was highly rounded. In turn we can now say how one must and how one must not drill at superdepths. Meanwhile, the unintentional curving of the hole was of

invaluable benefit to science. While continuing the drilling to get around the drilling tool, which had been left accidentally in the shaft, we thereby obtained the opportunity to raise specimens not from one "hole," but from several. The ends of several such shafts were at a distance of up to 1,000 m from each other. Imagine what a find this is for scientists. For in accordance with the core, which was raised from these shafts to the surface, it is possible to make a three-dimensional profile of the earth's depths at a previously unattainable depth.

[ITAR-TASS] At one time there came out in the press the report that the Kola hole had all but tapped the olivine belt. So is there gold there in reality?

[Guberman] It is premature, of course, to talk about the legendary olivine belt, D. Guberman said. But gold was actually found at a depth of 10,250 m. Moreover, gold with an industrial content. Hence, it is also possible on the surface. I think that the work of geologists in this direction will be crowned with success.

[ITAR-TASS] Now due to the lack of finances many scientific programs are being cut back, but does such a fate threaten the superdeep hole?

[Guberman] Not for the present. The state is financing our work. Everything is being provided for the program of this year. True, the prices for materials and equipment, which have increased enormously, are also giving us much trouble. We are already thinking in earnest about commercial activity in order to survive under these conditions. We are also hoping very much for the help of our western partners. For the results, which have been obtained in the process of drilling the hole, are of the greatest interest for the geological services of all countries. And for this reason we are inviting them to cooperate on mutually advantageous terms.

Everything grows old and breaks down, and our hole is no exception. A protective casing has already been run into it to a depth of 8,700 m. We are now preparing for the running of the next section of protection made of light-weight aluminum alloys to the level of 12,000 m. After this further vertical drilling to a depth of 14,000 m will become possible. While we expect to resume the sinking next year. But for the present scientific research work is continuing on the already sunk sections.

The government of the Russian Federation adopted a decree, by which the procedure of determining the fee and its maximum amount for polluting the natural environment is approved.

The document will be put into effect as of 1 January 1993 and applies to enterprises, organizations, and foreign legal and natural persons, which conduct any types of activity on the territory of the Russian Federation.

It is a matter, in particular, of the collection of a fee for the emission into the atmosphere of pollutants from stationary and mobile sources, the discharge of pollutants into surface and underground water bodies, the

disposal of waste, as well as such types of harmful effect as noise, vibration, and electromagnetic and radiation effects.

Two types of base standards of the fee are approved by the adopted document, namely: within the permissible standards and within the established limits, that is, the temporarily approved standards for emissions and discharges of pollutants and other harmful effects. The base standards of the fee are established with respect to each component of the pollutant, in view of the harmful effect with allowance for the degree of hazard for the natural environment and the health of the population.

The standards, which were established by Decree No. 13 of the RSFSR Council of Ministers of 9 January 1991 for environmental pollution with the application to them of a fivefold increasing coefficient, are in effect until 1 January 1993.

#### State Committee Examines RAS Property Issues

927A0299A Moscow *RADIKAL* in Russian No 33 (90), Sep 92 p 9

[Interview with Yuriy Lebedev, economic adviser for questions of federal property connected with the Russian Academy of Sciences of the State Committee for the Management of State Property of the Russian Federation, associate of the Institute of Molecular Biology of the Russian Academy of Sciences, and member of the Executive Committee of the Conference of Scientists of the Russian Academy of Sciences, by *RADIKAL* correspondent Vladimir Pokrovskiy; date and place not given: "Our Man in the State Committee for the Management of State Property"—first two paragraphs are *RADIKAL* introduction]

[Text] A new official—economic adviser for questions of federal property connected with the Russian Academy of Sciences—has appeared in the Goskomimushchestvo [State Committee for the Management of State Property] of the Russian Federation. Yuriy Lebedev, an associate of the Institute of Molecular Biology of the RAS [Russian Academy of Sciences] and a member of the Executive Committee of the Conference of Scientists, was named. In an interview with our correspondent Vladimir Pokrovskiy he said that for the present his functions have not been definitively specified, today his task is the preparation of decisions on all property issues which have a bearing on the federal property of the RAS.

It appears that the Goskomimushchestvo found for this position the most suitable person, so Lebedev's Executive Committee colleagues believe, so, to all appearances, the leadership of the RAS believes, so, without false modesty, he himself believes.

[Lebedev] This was a very abrupt turn in my life, Yuriy Lebedev says, and I agreed to this only because, as it seems to me, I know what to do. The Conference of Scientists of the RAS (Yuriy Lebedev during the preparation and holding of this conference worked in the

group which was studying questions of academy property) prepared on this problem a large amount of material, which I also intend to use.

[Pokrovskiy] And what will you do?

[Lebedev] Everything for the present is in an embryonic state. Judging from the documents, which are beginning to pile up in my office, I will have to deal mainly with a large number of conflicts that are connected with the buildings, in which academic institutes are located. For example, many problems will arise with the fulfillment of the decree of the government of 3 August, in accordance with which, in particular, the Goskomimushchestvo should in 1992 examine the question of the transfer to the academy of the federal property which its institutes rent. Now, as is known, the rent has increased sharply, at times disproportionately sharply, and at the end of the year many institutes will be faced with the need to pay sums which they do not have at all. For example, an extremely serious situation has formed at the Saratov Scientific Center, which was organized several years ago. None of the institutes of this center has its own building, all of them rent. The rent in Saratov is tremendous, and it is not clear at all what to do.

In general, the transfer of property gives rise to a large number of most difficult problems. It is good if a institute rented premises, put its desks there, and began working. But more often it happens otherwise. An institute usually installs its equipment, connects up something there, rebuilds something, invests money, and "settles down" in this property. And legally in this case it is very difficult to sort out what is whose.

The main thing is that it is unclear to whom to transfer what and how. For before doing this, it is necessary to know what is available, in other words, it is necessary to conduct an inventory. The Academy of Sciences has been conducting this inventory for long time, and by no means will complete everything. The deadlines passed long ago, and now this inventory has still not been completed. An even more important question is to whom is it to be transferred, as whom will the academy act here, and what legal status does it have?

[Pokrovskiy] But was there, it seems, a draft law on the RAS? Did the presidium approve it back in May?

[Lebedev] As far as I know, the presidium of the RAS turned the documents over to the Supreme Soviet of the Russian Federation, but there they have not yet examined them. But this draft law is very controversial (see *RADIKAL*, No 17) and even the leadership of the academy is not too confident that it will be passed in the form, in which the presidium of the RAS approved it. At any rate, such is the point of view of Academician Oleg Nefedov.

[Pokrovskiy] I heard that the executive committee is preparing an alternative law on the RAS. How do things stand with it?



[Lebedev] Yes, indeed, such a alternative draft law is being prepared and members of the executive committee are taking part in the work on it. I believe that it will also be submitted to the Supreme Soviet. I am not acquainted in detail with the document itself, but the basic idea, as far as I know, is to make the academy an association of academic institutes, enterprises, and public organizations, which will exist on a contractual basis. In my opinion, this is the optimum way out of the situation, inasmuch as it envisages the mildest reorganization of the academy. In addition the institutes given such a status of the RAS would have the opportunity to leave the academy with their own property.

The whole trouble is that the problems of academic property are so specific and complex that none of the departments, which these problems concern, plainly knows how to approach them.

The Goskomimushchestvo, understanding how important this is for the survival of basic science in Russia, tried for half a year to get from the academy qualified

recommendations, but never received anything intelligible. Now, it is true, the academy, thank God, is beginning to see things clearly, recently the president of the RAS even called the problem of property problem number one. Now it is being proposed to establish under the presidium a special department which will deal with questions of property, but for the present it is hard to say when it will be established and how effective it will be.

A conversation with Minister of Science Boris Saltykov and discussions with Ilya Lomakin-Rumyantsev, chief of the Department of Science and Technical Policy of the staff of the government of the Russian Federation, convinced me that they do not visualize very well what to do with academy property. Moreover, there is no reproach of anyone here—the problem is actually a very difficult one. To start with, the main thing is to ensure close cooperation between these departments. But if we succeed in accomplishing cooperation between three such large structures as the Goskomimushchestvo, the Ministry of Science, and the Department of Science, it will be possible to consider half the work done.

**International Academy of Sciences of Higher School Formed in Moscow***927A0300A Moscow POISK in Russian No 34 (172),  
15-21 Aug 92 p 4*

[Article by Svetlana Kirillova under the rubric "Details for POISK": "Academic Progress"—first paragraph is POISK introduction]

[Text] Academic progress has been observed in recent times among scientists of Russia. There has been an increase in the number of academies of sciences. The first general meeting of the International Academy of Sciences of the Higher School (MANVSh) was held the other day.

"The question of establishing the new academy was posed back in 1990, and at that time the USSR State Committee for Public Education supported the idea," explained Doctor of Physical Mathematical Sciences Aleksandr Tsybin, chief scientific secretary of the MANVSh and a professor of the Moscow Engineering Physics Institute. "But at that time the disintegration of the Union of republics and other political events of recent years prevented its implementation. In the summer of this year the founders of the new academy decided: It is now or never. Since they head the most prominent higher educational institutions of Russia and the CIS and in September many of them will be buried with work, the general meeting took place during the 'vacation' season—on 11 August."

Keen lovers of statistics calculated quickly: The next academy is the 27th in number. Incidentally, in the United States there are about 100 academies of different sciences—and no one would object if the 1,000th one appeared. The International Academy of Sciences of the Higher School decided to take the American path: It is a public organization and does not aspire to a piece of the budget "pie." For the present it intends to exist at the expense of the academicians themselves (5,000 rubles [R] a year from each one) and collective members (from them the annual dues is R150,000). Moreover, the executives of the MANVSh consider, the new organization will be able to exist successfully by means of the revenues from its scientific research, scientific production, scientific educational, and publishing activity. It seems obvious that applications for economic contractual jobs will not be long in coming: After all, the new academy unites scientists of the most authoritative higher educational institutions of Russia and the CIS. Several of its founders, for example, Corresponding Member of the RAS [Russian Academy of Sciences] Yu. Zhdanov, chairman of the Council of the Northern Caucasian Scientific Center of the Higher School, Corresponding Member of the RAS L. Puchkov, rector of the Moscow Mining Institute, Ye. Ametistov, rector of the Moscow Power Engineering Institute, and A. Shalnov, rector of the Moscow Engineering Physics Institute, are expressing the thought that in the level of its personnel the infant in the future will not be inferior to its

"older sister," that is, the "big" academy. According to forecasts, there should be no rivalry between the "sisters": The establishment of the International Academy of Sciences of the Higher School, in the opinion of its president, Doctor of Technical Sciences Prof. Valentin Shukshunov, is just the restoration of historical justice.

"For many years state policy was aimed at driving science from higher educational institutions," he said. "Here they deprived science of budget financing, only 'the training of personnel for the national economy' was included in the duties of higher educational institutions. More than half of the doctors of sciences of the country work today at the higher school, but the forces of VUZ scientists are dispersed: They do not have a single authoritative public organization which would defend their interests."

Now the organization has also been established. It regards as its statutory tasks the consolidation of the efforts of scientists of the higher school, the formulation and fulfillment of joint scientific, scientific and technical, and scientific educational programs and projects, the analysis and generalization of the achievements of scientists of the higher school, which are most important for the world community, and the attraction of additional source of financing of scientific research at higher educational institutions.

It is proposed that for the present eight commissions: for the natural and social sciences and the humanities, for the engineering and the medical sciences, for information science, economics, agriculture and forestry, and for higher education, will work in the structure of the new academy. Ties with foreign partners are being quickly established. The work on the formation of the "Science of the Higher School" Fund is already being completed. So that the new academy has impressive plans. But since we say to this day that "personnel decide everything," let the reader himself become convinced of how impressive the composition of the founders of the International Academy of Sciences of the Higher School is.

**Its vice presidents are:** V. Sadovnichiy, rector of Moscow State University; A. Lukoshkin, rector of the St. Petersburg Institute of Aviation Instrument Making; O. Kutafin, rector of the Moscow Legal Institute; V. Tikhomirov, rector of the Moscow Institute of Economics and Statistics; I. Pustynskiy, rector of the Tomsk Institute of Automated Control Systems and Radio Electronics; V. Afanasyev, head of a chair of the Moscow Institute of Electronic Machine Building.

**Its founding academicians are:** O. Alekseyev, rector of the St. Petersburg Electrical Engineering Institute; Sh. Alimov, head of the chair of mathematical physics of Tashkent University; Ye. Ametisov; V. Babeshko, rector of the Kuban State University; A. Belokon, rector of Rostov State University; Yu. Zhdanov; V. Vomperskiy, deputy director of the Institute of the Russian Language of the RAS; Ya. Zasurskiy, dean of the journalism faculty of Moscow State University; B. Kazandzhan, professor

of the Moscow Power Engineering Institute; E. Kalinin, chairman of the Russian "Intellect" Philanthropic Society; A. Kalyayev, director of the Scientific Research Institute of Multiprocessor Systems; V. Malyshev, prorector of the Moscow Aviation Institute; N. Mironov, prorector of Novosibirsk State University; V. Morozov, prorector of the Moscow Institute of Economics and Statistics; O. Naraykin, prorector of Moscow State Technical University imeni Bauman; M. Paltsev,

rector of the Moscow Medical Academy imeni Sechenov; I. Pustynskiy; L. Puchkov; I. Smirnov, head of a chair of the Moscow Institute of Electronic Machine Building; L. Tarasevich, rector of the St. Petersburg University of Economics and Finance; V. Tikhomirov; A. Tsybin; A. Shalnov; V. Shukshunov; V. Afanasyev.

The founding academicians elected 73 members of the new Academy of Sciences of the Higher School.

### Commentary on Recently Adopted Intellectual Property Laws

927A0292A Moscow RADIKAL in Russian No 31 (88), Aug 92 p 10

[Article by Candidate of Juridical Sciences Svetlana Rozina under the rubric "Commentary of a Lawyer": "Will Russia Have the Law 'On the Legal Protection of Computer Programs and Databases'?"]

[Text] Such a law is one of the three legislative acts on the protection of objects of intellectual property, which were passed by the Supreme Soviet of the Russian Federation on 14 May 1992, but on 26 June 1992 were returned for reconsideration to the Supreme Soviet on the basis of the conclusion of the Constitutional Law Administration attached to the president of the Russian Federation with a reference to their lack of conformity to the provisions of the Constitution of the Russian Federation and the Federation Treaty on the Delimitation of the Subjects of Jurisdiction and Powers Between Federal Bodies of State Power of the Russian Federation and Bodies of Power of the Sovereign Republics Within the Russian Federation (the Federation Treaty) on questions of the legal regulation of intellectual property.

Article I, point "n," of the Federation Treaty establishes that civil legislation belongs to the jurisdiction of bodies of state power of the Russian Federation.

Article II, point "i," of the Federation Treaty assigns the legal regulation of intellectual property to the joint jurisdiction of federal bodies and bodies of power of the republics with the Russian Federation.

However, intellectual property includes the copyright and the inventor's (patent) right, which traditionally are civil law institutions.

Article 72, point "n," of the Constitution of the Russian Federation specifies that civil legislation and the legal regulation of intellectual property in krais, oblasts, autonomous oblasts, autonomous okrugs, and the cities of Moscow and St. Petersburg pertain to the sphere of federal bodies of state power.

Thus, there is a direct substantive contradiction. It would be possible to overcome it by amending the Constitution and the Federation Treaty, in accordance with which the legal regulation of intellectual property belongs to the exclusive competence of federal bodies of state power.

The necessity of the legal regulation of intellectual property exclusively at the federal level is due to the fact that, first, the civil legislation, which pertains to the sphere of federal competence, includes as an integral component the legal regulation of intellectual property. Both the Civil Code of the Russian Federation and the Fundamentals of Civil Legislation of the USSR and the Republics, which were put into effect on the territory of the Russian Federation by the decree of the Supreme Soviet of the Russian Federation of 14 July 1992 until the

passage of a new Civil Code, contain special sections which regulate the copyright and the inventor's right, as well as other norms which pertain to the legal protection of objects of intellectual property.

Second, the rights of the authors of works of science, literature, and art and of other creators of intellectual property are among the basic human rights and freedoms, the regulation of which in conformity with Article I, point "n," of the Federation Treaty constitutes the exclusive competence of the Federation. In Article 27 of the Universal Declaration of Human Rights it is stated that "every person has the right to the protection of his moral and material interests, which are the result of scientific, literary, or artistic works, of which he is the author."

Third, according to Article I, point "g," of the Federation Treaty, the establishment of the foundations of the unified market also belongs to the competence of the Federation, while the establishment of common conditions of the legal protection of intellectual property (the uniform validity of patent protection on the entire territory of Russia, the uniform protection of the rights of authors of works of science, literature, and art, works of sound recording, and other subjects of related rights) is one of the most important elements of market relations.

Finally, the international aspect of this problem should also be considered. Being the legal successor of the former USSR, the Russian Federation is a member of a number of international agreements in the area of intellectual property—the Paris Convention on the Protection of Industrial Property, the Convention on the Formation of the World Intellectual Property Organizations, the Universal Copyright Convention—and is obligated to fulfill them.

The Trade Agreement with the United States, which was ratified by the Supreme Soviet of the Russian Federation on 12 June 1992, contains fundamentally important provisions on the development of the trade relations of our countries, which envisage the commitment of our country to pass by the end of 1992 a copyright law which conforms to the provisions of the Bern Convention on the Protection of Literary and Artistic Works and the Geneva Sound Recording Convention, and then to accede to the indicated conventions. For the meeting of this commitment the Russian Federation should ensure the appropriate level of protection of copyrights and related rights on the entire territory of Russia without exception.

An analogous problem will face Russia in case of its joining of the European Economic Community and the General Agreement on Tariffs and Trade (GATT).

The Russian-American trade agreement, in particular, contains a special obligation on the introduction in Russia of the protection of programs for electronic computers (computer programs) and on the level of their protection.



Thus, in one way or another Russia will have to ensure the adequate protection of objects of intellectual property on the entire territory.

The Law "On the Legal Protection of Computer Programs and Databases," which was passed by the Supreme Soviet of the Russian Federation, completely fulfills the obligations of Russia in accordance with the trade agreement with the United States in this area and is in keeping with the generally accepted norms of the European Community (the directive of the European Community on the protection of computer programs, which was adopted on 14 May 1991, and the EC directive on the protection of databases, which is being drafted) and with the provisions of the protocol to the Bern Convention, which is being drafted by the World Intellectual Property Organization (WIPO) and which after its adoption will become mandatory for the countries that are parties to the Bern Convention.

Computer programs and databases are grouped by this law with objects of the copyright and enjoy legal protection as works of literature, while databases enjoy it as collections.

The law establishes a 50-year period of protection, which is in effect from the moment of the development of computer programs or a database. Special chapters of the law regulate the exclusive personal and property rights to computer programs and databases and to their use.

The legal regulation of so-called job-related works, particularly such ones as computer programs and databases, is "central" for the development of market relations. Owing to the specific nature of these objects of intellectual property they, as a rule, are developed during the fulfillment of official duties.

In conformity with the provisions of the law the property rights to computer programs and databases, which were developed by way of the fulfillment of official duties or in accordance with an assignment of the employer, belong to the employer, if not otherwise provided for in a contract between him and the author. The procedure of the payment and the amount of the award are established by a contract between the author and the employer. Here the personal nonproperty rights always belong to the authors of the programs or databases.

This provision is in complete accord with generally recognized norms and reflects the practical essence of the matter: to use these works with the greatest effectiveness.

It is impossible to agree with the existing point of view that the presumption under the law with respect to the property rights belonging to the employer infringes upon the rights of authors of computer programs and databases.

On the one hand, authors in accordance with the law have the opportunity to envisage in the contract with the employer the extent of the rights, which are transferred under the contract, and other conditions with respect to

the use of programs and databases. On the other, the author is interested in the most complete and constant use of his work, for, as a rule, the author's fee is envisaged for the use of the work. In this the interests of the author and the employer coincide. Moreover, economically unjustified legislative restrictions in the granting to the employer of the property rights to the use of "job-related" computer programs and databases will merely have the result that foreign firms and joint ventures either will discontinue the enlistment of Russian authors in the development of programs and databases or will be forced to "export" them abroad, while their rights will be regulated for us by foreign legislation. In the latter case this is a "brain drain," which in no way increases the economic potential of Russia.

The necessity of the immediate putting into effect of the Law "On the Legal Protection of Computer Programs and Databases" is due to the adoption on 14 July 1992 by the Supreme Soviet of the Russian Federation of the decree "On the Regulation of Civil Legal Relations During the Period of the Conducting of the Economic Reform." In conformity with this decree the Fundamentals of Civil Legislation of the USSR and the Republics, which was approved on 31 May 1991 by the USSR Supreme Soviet (the Fundamentals), will be used on the territory of the Russian Federation until the passage of a new Civil Code of the Russian Federation.

Article 134, point 2, of the Fundamentals envisages among the objects of the copyright computer programs and databases. There are no other norms with regard to the specific nature of these objects in the Fundamentals. This is obviously insufficient for the proper regulation of the legal protection of these specific objects (it is not in keeping with the EC directive on the legal protection of computer programs, conflicts with the obligations of Russia under the trade agreement with the United States, prevents Russia from becoming a party to the Bern Convention, and so on).

The date, as of which the Fundamentals are being applied on the territory of the Russian Federation, is not indicated in the decree which was published in ROSSIYSKAYA GAZETA on 24 July 1992, thus, it is being put into effect 10 days after the official publication of the decree, that is, as of 4 August 1992. A number of problems immediately arise, particularly with respect to the protection of the new objects of the copyright—computer programs and databases. For example, it is not clear whether protection will be granted only to computer programs and databases, which were developed after 4 August 1992, or also to those of them, which were developed before this date. What is to be done in case of their use (initial use or reuse) after the named decree has been put into effect? This question is of great economic importance and can lead to considerable monetary outlays, including on the part of state organizations which use computer programs and databases. Here it should be taken into account that a large portion of the programs and databases belong to foreign firms.

The decree "On Putting Into Effect the Law of the Russian Federation 'On the Legal Protection of Computer Programs and Databases'" regulates in detail the procedure of the introduction of the protection of programs and databases and establishes for a specific period the conditions of the free use for scientific research, educational, and personal purposes without the derivation of a profit of computer programs and databases, which were released before the indicated law takes effect.

### VINITI Threatened by Financial Problems, Loss of Subscribers

927A0297A Moscow NEZAVISIMAYA GAZETA  
in Russian 15 Sep 92 p 8

[Letter to the editor by V. A. Arefyev under the rubric "Journals": "Abstracts..."]

[Text] I am turning to you with the faint hope of changing if only something, placing my trust in the authority of your newspaper. Many people are talking and much is being said now about the destruction of "Soviet" science, particularly applied science: the starvation salaries, the lack of a material base, the lack of a financial base for trips to international conferences and to practical studies and so forth ad infinitum. Our rulers are declaring the desire to run after the West and in so doing after a fashion are seeing to it that they fill their stomach and at the same time are chopping off their own feet.

The circulatory system of science in general is information. Until recently the VINITI—All-Union Institute of Scientific and Technical Information—one of the basic directions of the activity of which is the issuing of a publication that is unique in its own way—REFERATIVNYY ZHURNAL in the basic directions of modern science—was the only Russian-language center of the gathering and dissemination of relatively complete scientific information (for we have in everything a monopoly). A unique publication because such detailed summaries of current scientific periodicals in Russian no longer exist (there are more than enough in English and other European languages). However, in the last year or two wonders of not the best nature began with REFERATIVNYY ZHURNAL. I will talk not about the cost, particularly the subscription cost (given our salaries it is

enormous), but about the quality of printing (on paper which is worse than wrapping paper). The quality of the information being presented is important, but it is steadily declining. In September the abstracts, which were published in No 5 of the journal, that is, were written in February and March, were paid for: You can estimate yourselves the level of devaluation of the remuneration of this labor. But this "time lag" is also not the limit: As they told me in the accounting office, funds have been allocated for paying for only No 6, and no one knows when there will be money for the rest. Just one thing—the constant departure of abstract compilers, who are specialists, and their replacement with hacks—is the result of such a situation.

Misfortunes, as is known, never come simply. The quality of REFERATIVNYYE ZHURNALY is also corroding from another direction—the lack of currency (my God, not that much of it is needed here!) is leading to the reduction of the subscription to foreign journals, moreover, not just some rareties from India or Argentina, but leading publications which are of international importance. The absence in REFERATIVNYYE ZHURNALY of information on items in such publications does not simply decrease the quality of REFERATIVNYYE ZHURNALY, but simply makes their reading pointless and even harmful owing to the impossibility of forming a complete impression of the degree of study of a specific problem in the world.

I have been working as an abstract compiler at the VINITI for nearly 10 years, the quality of the abstracts and of REFERATIVNYY ZHURNAL itself (the section "Biology," but I know that in the other sections the situation is no better) has been before my eyes. The forecast is not very comforting: If this year the financial situation is not straightened out, REFERATIVNYY ZHURNAL in a year to a year and a half will cease its existence in connection with the fact that with respect to its quality no one will need it any longer.

Dear sirs! I hope very much that your newspaper will devote attention to this problem and will forward my letter to the government of Russia. I beg very much—help save the unique publication!

[Signed] Sincerely,

V.A. Arefyev

**Official Text of Russian Federation Patent Law**  
937A0014A Moscow ROSSIYSKAYA GAZETA  
in Russian 14 Oct 92 pp 4-5

[Patent Law of the Russian Federation of 23 September 1992, Decree of the Supreme Soviet of the Russian Federation "On Putting the Patent Law of the Russian Federation Into Effect" of 23 September 1992, and Decree of the Supreme Soviet of the Russian Federation "On the Reconsideration of the Patent Law of the Russian Federation" of 23 September 1992]

[Text] **THE LAW OF THE RUSSIAN FEDERATION**

**Section I. General Provisions**

**Article 1. The Relations Regulated by This Law**

This Law and the legislative acts of the republics within the Russian Federation, which are passed on its basis, regulate the property relations, as well as the personal nonproperty relations connected with them, which arise in connection with the development, legal protection, and use of inventions, useful models, and industrial designs (hereinafter in accordance with the text in the same way objects of industrial property).

**Article 2. The State Patent Office of the Russian Federation**

The State Patent Office of the Russian Federation (hereinafter the Patent Office) in conformity with this Law implements a unified policy in the area of the protection of objects of industrial property in the Russian Federation, accepts for consideration applications for inventions, useful models, and industrial designs, carries out with respect to them an examination and state registration, issues patents, publishes official information, publishes patent regulations and explanations on the application of this Law, and performs other functions in conformity with the statute on it, which is approved by the President of the Russian Federation.

Patent fees, the assets of the republic budget of the Russian Federation, as well as the fee for services and materials, which are made available by the Patent Office, are the sources of the financing of the activity of the Patent Office.

**Article 3. The Legal Protection of an Invention, a Useful Model, an Industrial Design**

1. The law protects and the patent for an invention, the certificate for a useful model, or the patent for an industrial design (hereinafter the patent) confirms the rights to an invention, a useful model, an industrial design.

2. The patent certifies the priority, the authorship of an invention, useful model, or industrial design, and the exclusive right to their use.

3. The patent for an invention is valid for 20 years, counting from the date of receipt of the application by the Patent Office.

The certificate for a useful model is valid for five years, counting from the date of receipt of the application by the Patent Office. The validity of the certificate for a useful model is extended by the Patent Office on the petition of the patentee, but not for more than three years.

The patent for an industrial design is valid for 10 years, counting from the date of receipt of the application by the Patent Office. The validity of the patent for an industrial design is extended by the Patent Office on the petition of the patentee, but not for more than five years.

4. The extent of the legal protection, which is granted by the patent for an invention and the certificate for a useful model, is determined by their claims, while the extent of the legal protection, which is granted by the patent for an industrial design, is determined by the set of its essential features, which are reflected in photographs of the item (mockup, drawing).

5. Legal protection in conformity with this Law is not granted to inventions, useful models, industrial designs, which are recognized by the state as secret. The procedure of handling secret inventions, useful models, industrial designs is regulated by special legislation of the Russian Federation.

**Section II. The Conditions of Patentability**

**Article 4. The Conditions of the Patentability of an Invention**

1. Legal protection is granted to an invention, if it is new, has an invention level, and is industrially applicable.

An invention is new, if it is not known from the level of technology.

An invention has an invention level, if for a specialist it does not obviously follow from the level of technology.

The level of technology includes any information which became accessible in the world before the date of priority of the invention.

When establishing the novelty of an invention all the applications for inventions and useful models (except withdrawn applications), which have been submitted in the Russian Federation by other persons, as well as the inventions and useful models, which have been patented in the Russian Federation, on the condition of their earlier priority are included in the level of technology.

An invention is industrially applicable, if it can be used in industry, agriculture, health care, and other fields of activity.

Such disclosure of information pertaining to an invention by the author, the applicant, or another person who



received this information from them directly or indirectly, in case of which data about the essence of the invention became accessible, is not recognized as a circumstance which prevents the recognition of the patentability of the invention, if the application for the invention is submitted to the Patent Office no later than six months from the date of the disclosure of the information. In this case it is the duty of the applicant to prove this fact.

2. The objects of an invention can be: a device, a method, a substance, a strain of a microorganism, plant and animal cell cultures, as well as the application of a previously known device, method, substance, strain for a new purpose.

3. There are not recognized as patentable inventions:

scientific theories and mathematical methods;

methods of the organization and management of the economy;

symbols, time tables, regulations;

methods of the performance of mental operations;

algorithms and programs for computers;

designs and diagrams of the layout of structures, buildings, grounds;

solutions, which concern only the appearance of items and are aimed at the satisfaction of esthetic needs;

the topologies of integrated microcircuits;

strains of plants and breeds of animals;

solutions, which run counter to public interests, the principles of humaneness, and morality.

#### **Article 5. The Conditions of the Patentability of a Useful Model**

1. The design implementation of means of production and consumer items, as well as their components is assigned to the category of useful models.

Legal protection is granted to a useful model, if it is new and is industrially applicable.

A useful model is new, if the set of its essential features is not known from the level of technology.

The level of technology includes information about means for the same purpose as the claimed useful model, which became accessible before the date of priority of the invention and was published in the world, as well as information about their application in the Russian Federation. All the applications for inventions and useful models (except withdrawn applications), which have been submitted in the Russian Federation by other persons, as well as the inventions and useful models,

which have been patented in the Russian Federation, on the condition of their earlier priority are included in the level of technology.

A useful model is industrially applicable, if it can be used in industry, agriculture, health care, and other fields of activity.

Such disclosure of information pertaining to a useful model by the author, the applicant, or another person who received this information from them directly or indirectly, in case of which data about the essence of the useful model became accessible, is not recognized as a circumstance which prevents the recognition of the patentability of the useful model, if the application for the useful model is submitted to the Patent Office no later than six months from the date of the disclosure of the information. In this case it is the duty of the applicant to prove this fact.

2. There are not protected as useful models:

methods, substances, strains of microorganisms, plant and animal cell cultures, as well as their application for a new purpose;

the objects indicated in point 3 of Article 4 of this Law.

#### **Article 6. The Conditions of the Patentability of an Industrial Design**

1. The industrial design solution of an item, which determines its appearance, is assigned to the category of industrial designs.

Legal protection is granted to an industrial design, if it is new, original, and industrially applicable.

An industrial design is recognized as new, if the set of its essential features, which determine the esthetic and (or) ergonomic peculiarities of the item, is not known from information which became accessible in the world before the date of priority of the industrial design.

When establishing the novelty of an industrial design all the applications for industrial designs (except withdrawn applications), which have been submitted in the Russian Federation by other persons, as well as the industrial designs, which have been patented in the Russian Federation, on the condition of their earlier priority are taken into account.

An industrial design is recognized as original, if its essential features are responsible for the creative nature of the esthetic peculiarities of the item.

An industrial design is recognized as industrially applicable, if it can be repeatedly reproduced by means of the production of the corresponding item.

Such disclosure of information pertaining to an industrial design by the author, the applicant, or another person who received this information from them directly or indirectly, in case of which data about the essence of the industrial design became accessible, is not recognized



as a circumstance which prevents the recognition of the patentability of the industrial design, if the application for the industrial design is submitted to the Patent Office no later than six months from the date of the disclosure of the information. In this case it is the duty of the applicant to prove this fact.

2. There are not recognized as patentable industrial design solutions:

which are due exclusively to the technical function of the item;

of objects of architecture (except small architectural forms), industrial, hydraulic engineering, and other permanent structures;

of publications as such;

of objects of unstable form made of liquid, gaseous, and bulk substances and substances similar to them;

of items which run counter to public interests, the principles of humaneness, and morality.

### Section III. Authors and Patentees

#### Article 7. The Author of an Invention, Useful Model, Industrial Design

1. The natural person, by whose creative labor they were developed, is recognized as the author of an invention, useful model, industrial design.

2. If several natural persons participated in the development of an object of industrial property, all of them are considered its authors. The procedure of exercising the rights, which belong to the authors, is specified by an agreement between them.

Natural persons, who did not make a personal creative contribution to the development of an object of industrial property, gave the author(s) only technical, organizational, or material assistance, or only aided the official registration of the rights to it and its use, are not recognized as authors.

3. The right of authorship is an inalienable right and is protected permanently.

#### Article 8. The Patentee

1. The patent is issued to:

the author(s) of an invention, useful model, industrial design;

natural and (or) legal persons (on the condition of their consent), who are indicated by the author(s) or his (their) legal successor in the application for the issuing of a patent or in the statement submitted to the Patent Office before the moment of registration of the invention, useful model, industrial design;

the employer in the instances provided for by point 2 of this article.

2. The right to the obtaining of a patent for an invention, useful model, industrial design, which were developed by a worker in connection with the performance by him of his official duties or a specific assignment received from the employer, belongs to the employer, if not otherwise stipulated by a contract between them.

In this case the author has the right to an award that is proportionate to the profit, which was derived by the employer or could have been derived by him in case of the proper use of the object of industrial property, in the cases of the obtaining by the employer of a patent, the transfer by the employer of the right to the obtaining of a patent to another person, the making by the employer of the decision on keeping the corresponding object secret, or the failure to obtain a patent according to the application submitted by the employer for reasons which depend on the employer. The award is paid in the amount and on the terms, which are determined on the basis of an agreement between them.

If the employer within four months from the date of his notification by the author about the developed invention, useful model, or industrial design does not submit an application to the Patent Office, does not cede the right to the submission of an application to another person, or does not report to the author the keeping secret of the corresponding object, the author has the right to submit an application and to obtain a patent in his own name. In this case the employer has the right to use the corresponding object of industrial property in internal production with the payment to the patentee of compensation which is determined on a contractual basis.

In case of the failure to reach an agreement between the parties on the amount and the procedure of the payment of the award or compensation the dispute is considered in legal form. For the untimely payment of the award or compensation, which are specified by the contract, the employer, who is guilty of this, bears liability in conformity with the civil legislation of the Russian Federation.

Other relations, which arise in connection with the development by a worker of an invention, useful model, industrial design, are regulated by legislation of the Russian Federation on job-related inventions, useful models, and industrial designs.

#### Article 9. The Federal Fund of Inventions of Russia

The Federal Fund of Inventions of Russia carries out the selection of inventions, useful models, industrial designs, acquires for them the rights of the patentee on a contractual basis, and assists their implementation in the interests of the state.

The receipts from the sale of licenses for objects of industrial property, the patents to which belong to the Fund, the voluntary contributions of enterprises and citizens, as well as the assets of the republic budget of the Russian Federation and other payments are the sources of financing of the Federal Fund of Inventions of Russia.

The Federal Fund of Inventions of Russia conducts its activity in conformity with a charter which is approved by the Government of the Russian Federation.

#### **Section IV. The Exclusive Right to the Use of an Invention, Useful Model, Industrial Designs**

##### **Article 10. The Rights and Duties of the Patentee**

1. The exclusive right to the use at his discretion of an invention, useful model, or an industrial design, which is covered by a patent, belongs to the patentee, if such use does not infringe upon the rights of other patentees, including the right to assign the use of the indicated objects to other persons, except instances when such use in conformity with this Law is not an infringement of the right of the patentee.

The interrelations with respect to the use of an object of industrial property, the patent to which belongs to several persons, are determined by an agreement between them. In the absence of such an agreement each of them can use the covered object at his own discretion, but does not have the right to grant a license for it or to cede the patent to another person without the consent of the other owners.

2. A product (article) is recognized as having been produced with the use of a patented invention, useful model, while a method, which is covered by a patent for an invention, is recognized as having been used, if every feature of the invention, useful model, which is included in an independent point of the claim, or a feature equivalent to it has been used in it.

An article is recognized as having been produced with the use of a patented industrial design, if it contains all its essential features.

3. The unauthorized production, use, importation, offer for sale, sale, other introduction into economic circulation, or storage for this purpose of a product, which contains a patented invention, useful model, industrial design, as well as the use of a method, which is covered by a patent for an invention, or the introduction into economic circulation or the storage for this purpose of a product, which was made directly by a method that is covered by a patent for an invention, are recognized as an infringement of the exclusive right of the patentee. In this case a new product is considered to have been obtained by a patented method in the absence of evidence to the contrary.

4. In case of the failure to use or the inadequate use by the patentee of an invention or industrial design within four years and of a useful model within three years from the date of the issuing of the patent any person, who wishes and is prepared to use a covered object of industrial property, in case of the refusal of the patentee to conclude a license agreement can petition the Supreme Patent Chamber of the Russian Federation (hereinafter the Supreme Patent Chamber) for the granting of a compulsory nonexclusive license. If the

patentee does not demonstrate that the failure to use or the inadequate use of the object of industrial property is due to valid reasons, the Supreme Patent Chamber grants the indicated license with the specification of the limits of use, the amount, deadlines, and procedure of payments. The amounts of the license payments should be established at not less than the market price of a license.

5. If the patentee cannot use an invention, useful model, industrial design, without infringing in so doing upon the rights of another patentee, he has the right to demand of the latter the conclusion of a license agreement.

6. The patentee can cede an obtained patent to any natural or legal person. The agreement on the cession of a patent is to be registered in the Patent Office. An agreement without registration is considered invalid.

7. The patent for an invention, useful model, industrial design and the right to its use are transferred through inheritance.

##### **Article 11. Actions Which Are Not Recognized as an Infringement of the Exclusive Right of the Patentee**

There is not recognized as an infringement of the exclusive right of the patentee:

the use of means, which contain inventions, useful models, industrial designs that are covered by patents, in the design or during the operation of means of transportation (sea, river, air, ground, and space) of other countries on the condition that the indicated means are temporarily or by chance on the territory of the Russian Federation and are used for the needs of a means of transportation. Such action is not recognized as an infringement of the exclusive right of the patentee, if the means of transportation belong to natural or legal persons of countries, which grant the same rights to the owners of means of transportation of the Russian Federation;

the conducting of a scientific study or experiment on a means, which contains an invention, useful model, and industrial design, which are protected by patents;

the use of means, which contain inventions, useful models, industrial designs, which are protected by patents, under extraordinary circumstances (natural disasters, catastrophes, major accidents) with the subsequent payment of commensurate compensation to the patentee;

the use of means, which contain inventions, useful models, industrial designs, which are protected by patents, for personal purposes without the derivation of income;

the one-time production of drugs as drugstores in accordance with the prescriptions of a physician;

the use of means, which contain inventions, useful models, industrial designs, which are protected by patents, if these means have been legally introduced into economic circulation.

#### **Article 12. The Right of Previous Use**

Any natural or legal person, who before the date of priority of an invention, useful model, industrial design conscientiously used on the territory of the Russian Federation an identical solution, which was developed independent of its author, or made the necessary preparations for this, retains the right to its subsequent free use without the expansion of the scale.

The right of previous use can be transferred to another natural or legal person only together with the works, at which the use of the identical solution occurred or the preparations necessary for this were made.

#### **Article 13. The Granting of the Right to the Use of an Invention, Useful Model, Industrial Design**

1. Any person, who is not the patentee, has the right to use an invention, useful model, industrial design, which are protected by a patent, only with the permission of the patentee (on the basis of a license agreement). In accordance with the license agreement the patentee (the licensor) is obliged to grant the right to the use of a covered object of industrial property to the extent, which is provided for by the agreement, to another person (the licensee), while the latter assumes the obligation to make to the licensor the payments stipulated by the agreement and to carry out other actions which are provided for by the agreement.

In case of an exclusive license the exclusive right to the use of an object of industrial property within the limits stipulated by the agreement is transferred to the licensee, with the reservation for the licensor of the right to its use in the area which is not transferred to the licensee; in case of a nonexclusive license the licensor, in granting to the licensee the right to the use of an object of industrial property, reserves all the rights that are confirmed by the patent, including the right to the granting of licenses to third persons.

2. The license agreement is to be registered in the Patent Office and without registration is considered invalid.

3. The patentee can submit to the Patent Office a statement on the granting to any person of the right to the use of an object of industrial property (an open license). The fee for keeping the patent in force is reduced in this case by 50 percent beginning with the year which follows the year of the publication of information about such a statement by the Patent Office.

A person, who has declared the desire to use the indicated object of industrial property, is obliged to conclude with the patentee an agreement on payments. Disputes on the terms of the agreement are considered by the

Supreme Patent Chamber. The statement of the patentee on the granting of the right to an open license is not subject to withdrawal.

4. In the interests of national security the Government of the Russian Federation has the right to permit the use of an object of industrial property without the consent of the patentee with the payment to him of commensurate compensation.

Disputes on the amount of compensation are resolved by the Supreme Patent Chamber.

#### **Article 14. The Infringement of a Patent**

1. Any natural or legal person, who uses an invention, useful model, or industrial design, which are protected by a patent, with the infringement of this Law, is considered an infringer of the patent.

2. On the demand of the patentee the infringement of the patent should be halted, while the natural or legal person, who is guilty of the infringement of the patent, is obliged to indemnify the patentee for the caused losses in conformity with the civil legislation of the Russian Federation.

3. Claims against the infringer of a patent can also be lodged by the holder of an exclusive license, if not other stipulated by the license agreement.

#### **Section V. The Obtaining of a Patent**

##### **Article 15. The Submission of an Application for the Issuing of a Patent**

1. The application for the issuing of a patent is submitted by the author, the employer, or their successor (hereinafter the applicant) to the Patent Office.

2. The claim for the issuing of a patent is submitted in Russian. The other documents of the application are submitted in Russian or another language. If the documents of the application have been submitted in another language, their Russian translation is attached to the application. The Russian translation can be submitted by the applicant within two months from the receipt by the Patent Office of the application which contains documents in another language.

3. The application can be submitted through a patent agent who is registered at the Patent Office. Natural persons, who reside within the Russian Federation, or foreign citizens or their patent agents conduct business on the obtaining of patents and their keeping in force through patent agents who are registered at the Patent Office. The powers of the patent agent are certified by a power of attorney, which is issued to him by the applicant.

The demands on a patent agent and the procedure of his certification and registration are specified by the Statute on Patent Lawyers, which is approved by a decree of the Government of the Russian Federation.



**Article 16. The Application for the Issuing of a Patent for an Invention**

1. The application for the issuing of a patent for an invention (hereinafter the application for an invention) should pertain to one invention or to a group of inventions, which are so interconnected that they form a unified invention idea (the requirement of the unity of the invention).

2. The application for an invention should contain:

a claim for the issuing of a patent with the indication of the author(s) of the invention and the person(s), in whose name the patent is requested, as well as their places of residence or locations;

a description of the invention, which discloses it with a completeness that is sufficient for implementation;

the claim of the invention, which reflects its essence and is based entirely on the description;

drawings or other materials, if they are necessary for understanding the essence of the invention;

an abstract.

A document, which confirms the payment of the fee in the established amount or the reasons for exemption from the payment of the fee, as well as for the reduction of its amount, is attached to the application for an invention.

3. The demands on the documents of the application for an invention are established by the Patent Office.

**Article 17. The Application for the Issuing of a Certificate for a Useful Model**

1. The application for the issuing of a certificate for a useful model (hereinafter the application for a useful model) should pertain to one useful model or a group of useful models, which are so interconnected that they form a unified creative idea (the requirement of the unity of the useful model).

2. The application for a useful model should contain:

a claim for the issuing of a certificate with the indication of the author(s) of the useful model and the person(s), in whose name the certificate is requested, as well as their places of residence or locations;

a description of the useful model, which discloses it with a completeness that is sufficient for implementation;

the claim of the useful model, which reflects its essence and is based entirely on the description;

drawings;

an abstract.

A document, which confirms the payment of the fee in the established amount or the reasons for exemption

from the payment of the fee, as well as for the reduction of its amount, is attached to the application for a useful model.

3. The demands on the documents of the application for a useful model are established by the Patent Office.

**Article 18. The Application for the Issuing of a Patent for an Industrial Design**

1. The application for the issuing of a patent for an industrial design (hereinafter the application for an industrial design) should pertain to one industrial design or to a group of industrial designs, which are so interconnected that they form a unified invention idea (the requirement of the unity of the industrial design).

2. The application for an industrial design should contain:

a claim for the issuing of a patent with the indication of the author(s) of the industrial design and the person(s), in whose name the patent is requested, as well as their places of residence or locations;

a set of photographs, which depict the article, mockup, or sketch, which give a complete detailed idea of the appearance of the article;

a drawing of the general appearance of the article, an ergonomic diagram, a ready-made chart, if they are necessary for the disclosure of the essence of the industrial design;

a description of the industrial design, which includes a list of its essential features.

A document, which confirms the payment of the fee in the established amount or the reasons for exemption from the payment of the fee, as well as for the reduction of its amount, is attached to the application for an industrial design.

3. The demands on the documents of the application for an industrial design are established by the Patent Office.

**Article 19. The Priority of an Invention, a Useful Model, an Industrial Design**

1. The priority of an invention is established according to the date of receipt at the Patent Office of the application, which contains a claim for the issuing of a patent, a description, the claim, and drawings, if in the description there is a reference to them.

The priority of a useful model is established according to the date of receipt at the Patent Office of the application, which contains a claim for the issuing of a certificate, a description, the claim, and drawings.

The priority of an industrial design is established according to the date of receipt of the application, which contains a claim for the issuing of a patent, a set of photographs, and a description.



2. Priority can be established according to the date of the submission of the first application in a state which is a party to the Paris Convention on the Protection of Intellectual Property (convention priority), if the application for an invention, useful model was received by the Patent Office within 12 months, while the application for an industrial design was received by the Patent Office within six months from the indicated date. If due to circumstances, which do not depend on the applicant, the application with the solicitation of convention priority could not be submitted within the indicated period, this period can be extended, but not by more than two months.

The applicant, who wishes to exercise the right of convention priority, is obliged to indicate this when submitting the application or within two months from the date of receipt of the application by the Patent Office and to attach a copy of the first application or to submit it not later than three months from the receipt of the application by the Patent Office.

3. Priority can be established according to the date of receipt of additional materials, if they have been drawn up by the applicant as an independent application, which has been submitted prior to the expiration of the three-month period from the date of receipt by the applicant of the notice of the Patent Office about the impossibility of taking the additional materials into account in connection with their recognition as altering the essence of the claimed solution.

4. Priority can be established according to the date of receipt by the Patent Office of an earlier application of the same applicant, which discloses this invention, useful model, industrial design, if the application, in accordance with which such priority is requested, was received no later than 12 months from the date of receipt of the earlier application for an invention and no later than six months from the date of receipt of the earlier application for a useful model, industrial design. In this case the earlier application is considered to have been withdrawn.

Priority can be established on the basis of several applications, which were submitted earlier, with the observance for each of them of the indicated conditions.

Priority cannot be established according to the date of receipt of an application, in accordance with which earlier priority has already been requested.

5. The priority of an invention, useful model, industrial design with respect to a separate application is established according to the date of receipt by the Patent Office of the initial application which discloses it, if the separate application was received before the making with respect to the initial application of a decision on the refusal to issue a patent, the possibilities of the appeal of which have been exhausted, and, in case of the issuing with respect to the indicated application of a patent, before the date of registration in the state register.

6. If in the examination process it is established that identical objects of industrial property have the same date of priority, the patent can be issued with respect to the application, with regard to which an earlier date of its sending to the Patent Office has been proven, while in case of the coincidence of these dates with respect to the application which has an earlier registration number of the Patent Office, if not otherwise stipulated by an agreement between the applicants.

#### **Article 20. The Correction of the Documents of the Application on the Initiative of the Applicant**

Within two months from the date of receipt of the application the applicant has the right to make in its materials corrections and revisions without changing the essence of the claimed invention, useful model, or industrial design.

On the condition of the payment of the fee the corrections and revisions can also be submitted with respect to an application for an invention after the expiration of the indicated time, but no later than the giving of a decision in accordance with the results of the examination in essence. Such corrections and revisions are taken into account when publishing the data on the application for an invention, if they were received by the Patent Office within 12 months from the date of receipt of the application.

#### **Article 21. The Examination of the Application for an Invention**

1. After a lapse of two months from the date of receipt of an application the Patent Office makes with respect to it a formal examination. On the written petition of the applicant the formal examination may be started before the expiration of the indicated period. In this case the applicant from the moment of the submission of the petition loses the rights to the correction and revision of the documents of the application on his own initiative without the payment of a fee, which are envisaged by the first part of Article 20 of this Law.

During the making of the formal examination of the application the presence of the necessary documents and the observance of the established demands on them are verified and the question of whether the claimed proposal relates to objects, to which legal protection is granted, is considered.

2. If in conformity with Article 20 of this Law the applicant submitted additional materials regarding the application, in the process of the examination it is checked whether they change the essence of the claimed invention.

The additional materials change the essence of a claimed invention, if they contain features, which are to be included in the claim of the invention and were absent in the initial materials of the application. The additional materials in the area, which changes the essence of the claimed invention, are not taking into account when

considering the application and can be drawn up by the applicant as an independent application.

3. The applicant is notified about a positive result of the formal examination and the establishment of priority in conformity with point 1 of Article 19 of this Law. If as a result of the formal examination it is established that the application has been drawn up for a proposal that does not pertain to patentable objects, the decision on the refusal to issue a patent is made. An objection to the decision can be submitted to the Chamber of Appeals of the Patent Office within two months from the date of its receipt by the applicant. The objection should be considered by the Chamber of Appeals of the Patent Office within two months from the date of its receipt.

4. With respect to an application, which was drawn up with a violation of the demands on its documents, an inquiry is sent to the applicant with the suggestion to submit within two months from the date of its receipt the corrected or missing documents.

If the applicant within the indicated period does not submit the requested materials or a petition for the extension of the established period, the application is declared withdrawn.

5. With respect to an application, which was submitted with a violation of the requirement of unity, it is suggested to the applicant that within two months from the date of receipt by him of the corresponding notification he report which of the inventions should be considered and, if necessary, make revisions in the documents of the application. The other inventions, which were included in the materials of the initial application, can be drawn up as separate applications.

If the applicant within two months after the receipt of the notification of a violation of the requirement of unity does not report which of the proposals it is necessary to consider and does not submit revised documents, the consideration of the object, which is indicated in the claim first, is carried out.

6. The Patent Office after the lapse of 18 months from the date of receipt of an application, which underwent formal examination with a positive result, publishes data on the application, except for instances when it has been withdrawn. The Patent Office determines the composition of the published data. Any person after the publication of the data on an application has the right to familiarize himself with its materials.

On the petition of the applicant the Patent Office can publish data on an application earlier than the indicated date.

The author of an invention has the right to refuse to be mentioned as such in the published data on an application.

7. On the petition of the applicant or third persons, which can be submitted at any time within three years from the date of receipt of the application, the Patent

Office conducts an examination of the application in essence, which includes the establishment of the priority of the invention, if it was not established when conducting the formal examination, and the verification of the patentability of the invention. If a petition for the conducting of an examination is not submitted in the indicated time, the application is considered withdrawn. The applicant is notified by the Patent Office about received petitions of third persons.

8. During the period of the conducting of the examination of an application in essence the Patent Office has the right to request from the applicant additional materials, without which the conducting of the examination is impossible, including the changed claim of the invention. The additional materials at the request of the expert commission should be submitted without a change of the essence of the invention within two months from the date of receipt by the applicant of the request or copies of the materials, which are opposed to the application, provided that the indicated copies have been requested by the applicant within a month from the date of receipt by him of the request of the expert commission. If the applicant in the indicated time does not submit the requested materials or a request for the extension of the indicated period, the application is declared withdrawn.

The procedure established by point 2 of this article applies to the additional materials in the area which changes the essence of the invention.

If as a result of the examination of the application in essence the Patent Office establishes that the claimed invention, which is expressed by the claim proposed by the applicant, meets the conditions of patentability, the decision on the issuing of a patent with this claim is given.

In case of the establishment of the failure of the claimed invention, which is expressed by the claim proposed by the applicant, to meet the conditions of patentability the decision on the refuse to issue a patent is given.

The applicant can submit to the Chamber of Appeals of the Patent Office an objection to the decision on the refusal to issue a patent within three months from the date of receipt of the decision or the copies demanded from the Patent Office of the materials opposed to the application on the condition of their request by the applicant within two months from the date of receipt by him of the decision. The objection should be considered by the Chamber of Appeals of the Patent Office within four months from the date of its receipt.

9. In case of the disagreement of the applicant with the decision of the Chamber of Appeals he can within six months from the date of its receipt appeal to the Supreme Patent Chamber. The decision of the Supreme Patent Chamber is final.

10. The applicant and third persons can petition for the conducting with respect to an application, which underwent a formal examination with a positive result, of an

information search for the determination of the level of technology, in comparison with which the evaluation of the novelty and invention level of the claimed proposal will be made. The procedure of the conducting of such a search and the making available of information about it is specified by the Patent Office.

11. The applicant has the right to familiarize himself with all the materials, which are indicated in the request of the expert commission, in the decision of the expert commission, or in the report on the search. The Patent Office sends copies of the patent materials requested by the applicant within a month from the date of receipt of the request of the applicant.

12. The deadlines, which are envisaged by this article, except the deadlines established by points 7 and 9, and have been missed by the applicant, can be restored by the Patent Office on the condition of the confirmation of valid reasons and the payment of a fee.

The petition on the restoration of a deadline can be submitted by the applicant no later than 12 months from the day of expiration of the missed deadline.

#### Article 22. Temporary Legal Protection

1. Temporary legal protection to the extent of the published claim is granted to a claimed invention from the date of publication of data on the application to the date of publication of data on the issuing of a patent.

2. Temporary legal protection is considered not to have ensued, if a decision on the refusal to issue a patent, the possibilities of the appeal of which have been exhausted, has been made.

3. A natural or legal person, who uses a claimed invention during the period indicated in point 1 of this article, pays the patentee after receipt of a patent monetary compensation. The amount of compensation is specified by an agreement of the parties.

4. The provisions of point 3 of this article apply to inventions, useful models, and industrial designs from the date of the notification by the applicant of the person using them about the submitted application for the issuing of a patent, if with respect to the inventions this date came before the date of publication of data on the application and with respect to useful models and industrial designs before the date of publication of data on the issuing of a patent.

#### Article 23. The Examination of the Application for a Useful Model

1. In case of the examination of the application for a useful model the verification of the meeting of the conditions of patentability, which are established by point 1 of Article 5 of this Law, is not carried out. The certificate is issued with the responsibility of the applicant without a guarantee of validity.

2. When conducting a formal examination of an application for a useful model the provisions, which are contained in points 1-5 of Article 21 of this Law, are accordingly used. If as a result of the examination it is established that the application was submitted for a proposal, which relates to patentable objects, and its documents were drawn up properly, the decision on the issuing of a certificate is made.

3. The applicant and third persons have the right to petition for the conducting of an information search with respect to the application for a useful model for the determination of the level of technology, in comparison with which an evaluation of the patentability of the useful model can be made. The procedure of the conducting of the information search and the making available of information about it is specified by the Patent Office.

4. After the publication of the data on the issuing of a certificate for a useful model any person has the right to familiarize himself with the materials of the application.

#### Article 24. The Examination of the Application for an Industrial Design

1. With respect to the application for an industrial design the Patent Office conducts a formal examination and an examination in essence.

2. When conducting a formal examination of an application for an industrial design the provisions, which are contained in points 1-5 of Article 21 of this Law, are accordingly used.

In case of a positive result of the formal examination an examination in essence is conducted.

When conducting an examination of an application in essence the provisions, which are contained in points 8, 9, 11, and 12 of Article 21 of this Law, are accordingly used.

3. After the publication of the data on the issuing of a patent for an industrial design any person has the right to familiarize himself with the materials of the application.

#### Article 25. The Publication of Data on the Issuing of a Patent

The Patent Office after the making of the decision on the issuing of a patent, on the condition of the payment by the applicant of the fee for the issuing of a patent, publishes in its official bulletin data on the issuing of the patent, which include the name of the author(s), if the latter did not refuse to be mentioned as such, and of the patentee, the name and claim of the invention or useful model or a list of the essential features of the industrial design and its picture. The Patent Office determines the complete composition of the published data.



### **Article 26. The Registration of an Invention, Useful Model, Industrial Design and the Issuing of a Patent**

1. The Patent Office at the same time as the publication of data on the issuing of a patent enters in the State Register of Inventions of the Russian Federation, the State Register of Useful Models of the Russian Federation, or the State Register of Industrial Designs of the Russian Federation respectively the invention, the useful model, or the industrial design and issues a patent to the person, in whose name it was requested.

If there are several persons, in whose name the patent was requested, one patent is issued to them.

2. The Patent Office determines the form of the patent and the composition of the data indicated in it.

3. At the request of the patentee the correction of obvious and technical errors is made by the Patent Office in the issued patent.

### **Article 27. The Withdrawal of an Application**

The applicant has the right before the publication of data on an application for an invention, but no later than the date of its registration, or before the date of the registration of an industrial design or a useful model to withdraw the application.

### **Article 28. The Conversion of Applications**

Before the publication of data on an application for an invention the applicant has the right to convert it to an application for a useful model by the submission of the appropriate claim. The conversion of an application for a useful model into an application for an invention is possible before the making with respect to it of the decision on the issuing of a certificate.

In case of the indicated conversions the priority of the first application is retained.

## **Section VI. The Termination of a Patent**

### **Article 29. The Contesting of a Patent**

1. A patent during the entire period of its validity can be contested and can be declared invalid in full or in part in cases of:

a) the failure of the protected object of industrial property to meet the conditions of patentability, which have been established by this Law;

b) the presence in the claim of an invention of a useful model or in the set of essential features of an industrial design of features, which were absent in the initial materials of the application;

c) the incorrect indication in the patent of the author(s) or patentee(s).

2. An objection to the issuing of a patent for the reasons, which are envisaged by subpoints "a" and "b" of point 1 of this article, should be considered by the Chamber of

Appeals within six months from the date of its receipt; the patentee should be familiarized with the objection. In this case the Chamber of Appeals considers the objection within the limits of the reasons contained in it.

3. In case of disagreement with the decision of the Chamber of Appeals on the objection to the issuing of a patent any of the parties within six months from the moment of the making of the decision can submit an appeal to the Supreme Patent Chamber, the decision of which is final.

### **Article 30. The Early Termination of a Patent**

1. A patent is terminated early:

in case of the declaration of the patent to be invalid in full in conformity with Article 29 of this Law;

on the basis of a claim submitted by the patentee to the Patent Office;

in case of the failure to pay at the established time the fees for keeping the patent in force.

2. The Patent Office publishes in the official bulletin data on the early termination of a patent.

## **Section VII. The Protection of the Rights of Patentees and Authors**

### **Article 31. The Consideration of Disputes in Legal Form**

Disputes, which are connected with the application of this Law, are considered in accordance with the procedure established by legislation of the Russian Federation.

The courts, including arbitral tribunals and courts of arbitration, in conformity with their jurisdiction consider the following disputes:

about the authorship of an invention, useful model, industrial design;

about the establishment of the patentee;

about the infringement of the exclusive right to the use of a protected object of industrial property and other property rights of the patentee;

about the conclusion and execution of license agreements for the use of a protected object of industrial property;

about the right of previous use;

about the payment of the award to the author by the employer in conformity with point 2 of Article 8 of this Law;

about the payment of the compensations envisaged by this Law, except the case envisaged by point 4 of Article 13 of this Law;



other disputes which are connected with the protection of the rights which are certified by the patent, except disputes which belong to the jurisdiction of the Supreme Patent Chamber.

**Article 32. The Liability for the Infringement of the Rights of Authors**

The appropriation of authorship, the compelling of coauthorship, the illegal divulgence of data about an object of industrial property entail criminal liability in conformity with legislation of the Russian Federation.

**Section VIII. Final Provisions**

**Article 33. Patent Fees**

Patent fees are collected for the performance of legally significant actions which are connected with a patent. The patent fees are paid to the Patent Office. The list of actions, for the performance of which patent fees are collected, their amounts and times of payment, as well as the reasons for exemption from the payment of the fees, the reduction of their amounts, or the return of the fees are established by the Government of the Russian Federation.

**Article 34. The State Stimulation of the Development and Use of Objects of Industrial Property**

The state stimulates the development and use of objects of industrial property, establishes for authors and managing subjects, which use the indicated objects, preferential terms of taxation and lending, grants them other preferences in conformity with the legislation of the Russian Federation.

**Article 35. The Patenting of an Object of Industrial Property in Foreign Countries**

The patenting in foreign countries of inventions, useful models, industrial designs, which were developed in the Russian Federation, is carried out no earlier than three months after the submission of an application to the Patent Office.

The Patent Office can in necessary cases permit the patenting of an invention, useful model, industrial design in foreign countries before the indicated date.

**Article 36. The Rights of Foreign Natural and Legal Persons**

Foreign natural and legal persons exercise the rights, which are envisaged by this Law, on the same basis as natural and legal persons of the Russian Federation by virtue of international agreements of the Russian Federation or on the basis of the principle of reciprocity.

**Article 37. International Agreements**

If different regulations than those contained in this Law are established by an international agreement of the Russian Federation, the regulations of the international agreement are applied.

[Signed] President of the Russian Federation B. Yeltsin  
Moscow, The House of Soviets of Russia 23 September 1992 No. 3517-1

**Decree of the Supreme Soviet of the Russian Federation "On Putting the Patent Law of the Russian Federation Into Effect"**

The Supreme Soviet of the Russian Federation decrees:

1. To put the Patent Law of the Russian Federation into effect as of the date of its publication.
2. The Patent Law of the Russian Federation applies to legal relations which develop after the indicated Law has been put into effect.

3. To recognize the validity on the territory of the Russian Federation of previously issued protective documents of the USSR for inventions and industrial designs.

Any person, who prior to 1 July 1991 made the necessary preparations for the use of an invention covered by a USSR patent, the term of validity of which was extended in conformity with the decree of the USSR Supreme Soviet of 31 May 1991, "On the Procedure of Putting the USSR Law 'On Inventions in the USSR' Into Effect," acquires the right to the free use of the invention 15 years after the date of the submission of an application for the issuing of this patent.

The validity on the territory of the Russian Federation of previously issued protective documents of the USSR for inventions and industrial designs can be terminated in case of the lack of conformity of the covered object to the terms of patentability (the demands made on an invention or industrial design), which were envisaged by the legislation in effect on the date of the submission of the application, in accordance with the procedure established by points 2 and 3 of Article 29 of the Patent Law of the Russian Federation.

4. With regard to applications for the issuing of authorship certificates or patents of the USSR for inventions and certificates or patents of the USSR for industrial designs, with respect to which at the moment the Patent Law of the Russian Federation is put into effect the office work has not been completed and protective documents have not been issued, to grant to the applicants jointly with the authors the right to petition for the issuing of patents of the Russian Federation with the preservation of priority in accordance with the initially submitted applications.

The petitions are submitted to the State Patent Office of the Russian Federation no later than 30 June 1993.

The applications, with regard to which petitions are submitted in the indicated time, are considered in accordance with the procedure established by the Patent Law of the Russian Federation, here the conditions of the coverability of an invention and an industrial design,

which were envisaged by the legislation that was in effect on the date of the submission of the application, are applied.

If an agreement between the applicant and the author(s) of an invention or industrial design on the joint submission of a petition is not reached, the issuing of a patent of the Russian Federation is not carried out.

5. With respect to applications for inventions and industrial designs, which were submitted in conformity with the legislation of the former USSR and in accordance with which the USSR State Patent Office or the Committee for Patents and Trademarks of the Ministry of Science, the Higher School, and Technical Policy of the Russian Federation gave expert decisions on the possibility of the issuing of protective documents, to grant temporary legal protection on the territory of the Russian Federation from the date of disclosure of the application for general familiarization to the date of the issuing of the patent.

Disclosure is carried out with respect to the applications, with regard to which petitions for the issuing of a patent of the Russian Federation have been submitted.

6. To establish that the provisions of Article 29, points 1, 3, and 5 of Article 32, and Articles 33 and 34 of the USSR Law "On Inventions in the USSR" and point 3 of Article 21, points 1 and 3 of Article 22, and Article 23 of the USSR Law "On Industrial Designs" with respect to the questions of preferences and material stimulation are applied on the territory of the Russian Federation until the passage of legislative acts of the Russian Federation on the development of invention and engineering design creativity.

The Government of the Russian Federation is to specify the procedure of the application of the indicated provisions with allowance for legislative acts of the Russian Federation.

The Committee of the Supreme Soviet of the Russian Federation for Science and Public Education jointly with the Commission of the Council of the Republic of the Supreme Soviet of the Russian Federation for the Budget, Plans, Taxes, and Prices is to submit to the Supreme Soviet of the Russian Federation proposals on the establishment of preferences with regard to the tax on the profit of enterprises and organizations, which use inventions and industrial designs.

7. With respect to authorship certificates of the USSR for inventions, with regard to which at the moment of the putting of the Patent Law of the Russian Federation into effect the 20-year period from the date of the submission of an application has not expired, and certificates of the USSR for industrial designs, with regard to which the 15-year period from the date of the submission of an application has not expired, as well as with respect to USSR patents in the name of the USSR State Fund of Inventions to grant the applicants jointly with the authors the right to petition for the termination of

the indicated protective documents on the territory of the Russian Federation with the simultaneous issuing of a patent of the Russian Federation for the remaining period.

With respect to inventions and industrial designs, with regard to which decisions on the issuing of patents in the name of the USSR State Fund of Inventions were given, to grant the applicants jointly with the authors the right to petition for the issuing of a patent of the Russian Federation with the deferment of the payment of patent fees until the start of the receipt of revenues from the use of inventions or industrial designs, but not for more than five years.

8. Any person, who legitimately began prior to the date of the submission of the petition for the issuing of a patent of the Russian Federation in conformity with point 4 or point 7 of this Decree the use of an invention or industrial design, for which an application for the issuing of an authorship certificate (certificate) was submitted or an authorship certificate (certificate) was issued, retains the right of the subsequent use of this invention or industrial design without the conclusion of a license agreement. The payment of the fee to the authors in these cases is carried out in accordance with the procedure, which is established for the payment of the fee respectively for inventions, which are covered by authorship certificates, and industrial designs, which are covered by a certificate.

9. To grant the Government of the Russian Federation the right to establish on the basis of bilateral agreements with the states that are former subjects of the USSR a different procedure of the conducting of affairs on the obtaining of patents and their keeping in force than the procedure provided for by point 3 of Article 15 of the Patent Law of the Russian Federation.

10. The Committee of the Supreme Soviet of the Russian Federation for Science and Public Education, the Committee of the Supreme Soviet of the Russian Federation for Industry and Power Engineering, and the Committee of the Supreme Soviet of the Russian Federation for Legislation are to prepare and submit to the Supreme Soviet of the Russian Federation:

the draft of a law on the Supreme Patent Chamber of the Russian Federation;

the draft of a law of the Russian Federation on job-related inventions, useful models, and industrial designs;

proposals on administrative and criminal liability for the violation of patent legislation.

11. The Government of the Russian Federation:

a) is to ensure the passage of the standard acts envisaged by the Patent Law of the Russian Federation by 31 December 1992;

b) to prepare and promulgate standard acts and, with regard to questions which require legislative regulation,

to submit in accordance with established procedure to the Supreme Soviet of the Russian Federation by 31 December 1992 proposals:

on the procedure of using inventions and industrial designs, which are covered by authorship certificates for inventions and certificates for an industrial design, which are in effect on the territory of the Russian Federation, and the payment of the award to their authors;

on the procedure of handling secret inventions, useful models, and industrial designs and compensating for their classification;

on steps on the economic stimulation of the development and use of objects of industrial property;

on guarantees of the rights of the authors of inventions, useful models, and industrial designs, who work at state enterprises, organizations, and institutions;

on the making of amendments and additions to prevailing legislation in connection with the passage of the Patent Law of the Russian Federation.

12. To establish that the State Patent Office of the Russian Federation and the organizations, which have been entrusted with the direct performance of individual functions, which are assigned by the Patent Law of the Russian Federation to the State Patent Office of the Russian Federation, form the unified state patent service.

The organizations, which belong to the unified state patent service, are legal persons who engage in activity that does not pursue the goal of deriving a profit.

The Government of the Russian Federation is to specify the list and the legal status of the organizations, which belong to the unified state patent system, and the powers of the State Patent Office of the Russian Federation with regard to the management of the property of these organizations.

Patent fees go directly into the budget of the State Patent Office of the Russian Federation.

13. The Committee of the Supreme Soviet of the Russian Federation for Science and Public Education is to carry out the monitoring of the execution of this Decree.

[Signed] Chairman of the Supreme Soviet of the Russian Federation R.I. Khasbulatov

Moscow, The House of Soviets of Russia 23 September 1992 No. 3518-1

**Decree of the Supreme Soviet of the Russian Federation "On the Reconsideration of the Patent Law of the Russian Federation"**

Having considered the Patent Law of the Russian Federation, which was returned by the President of the Russian Federation, the Supreme Soviet of the Russian Federation resolves:

1. In conformity with part two of Article 117 of the Constitution (Basic Law) of the Russian Federation to pass again the Patent Law of the Russian Federation with the proposed amendment of the text of Article 1 of the indicated Law.

2. To make the appropriate amendments and additions in points 1, 3, 4, 11, 13, and 14 of the decree of the Supreme Soviet of the Russian Federation of 18 June 1992, "On Putting the Patent Law of the Russian Federation Into Effect."

[Signed] Chairman of the Supreme Soviet of the Russian Federation R.I. Khasbulatov

Moscow, The House of Soviets of Russia 23 September 1992 No. 3519-1

#### **Status of Patent Protection in Russia Discussed**

927A0294A Moscow RADIKAL in Russian No 33 (90), Sep 92 p 10

[Article by Georgiy Vitaliyev, general director of the Russian Agency for the Legal Protection of Computer Programs, Databases, and Topologies of Integrated Circuits (RosAPO), under the rubric "Commentary of a Specialist": "The Fuss Over the Patent. When Will Laws on the Protection of Intellectual Property Begin To Work in Russia?"]

[Text] The old saying in free rendering says that a working law is better than the best nonworking one. For the real protection of intellectual property three basic components are necessary: an adopted and working legislative base, the presence of state bodies, which ensure the identification and examination of inventions and other objects, as well as the presence of official and intermediary organizations which guarantee the observance of the rights that follow from protective documents.

As to the legislative base, the readers of RADIKAL have already had an opportunity to familiarize themselves with the texts of four laws on the protection of objects of intellectual property and with the commentaries on them during July-August 1992. From these publications they undoubtedly know that the indicated laws were passed by the Supreme Soviet, but were not put into effect, they also know for what reasons this occurred. The publication of the texts of the laws enables the unbiased reader to evaluate independently the thoroughness and logic of the reasons, for which the laws were returned for reconsideration.

Leapfrogging with the standard base undoubtedly complicates the work of the Committee for Patents and



Trademarks (Rospatent), the Russian Intellectual Property Agency attached to the president of the Russian Federation (RAIS), and other organizations, which carry out the protection of objects of intellectual property in practice. It is desirable to use the time, which is left until the reconsideration of the laws at the fall session of the Supreme Soviet, as productively as possible for the reorganization of the structure of the indicated organizations in conformity with the provisions of the corresponding laws. Then it will be possible to ensure the issuing of patents and the implementation of the rights, which follow from them, immediately after the laws are put into effect.

In the Patent Law and the Law "On Trademarks, Service Marks, and Names of the Places of Origin of Commodities" it is envisaged that the basic functions on the legal protection of inventions, useful models, industrial designs, trademarks, and names of the places of origin of commodities are guaranteed by the state patent office. Point 12 of the decree on putting the Patent Law into effect specifies that the Patent Office and other organizations, to which the direct fulfillment of individual functions of the office have been assigned, form the unified state patent service. Based on this the government of the Russian Federation on 25 July 1992 gave Rospatent and other departments the assignment to draft the Statute on the State Patent Office.

It seems advisable to transform Rospatent and its subordinate organizations in such a way that the structure of the Russian Patent Office would correspond to the structure of the European or German patent office. Such a structure presumes that the office consists of several centers or departments, which are legal persons on a separate (but not independent) balance sheet, but their activity should not pursue the goal of deriving a profit. There can be a part of the office: a center (department) for the examination of objects of intellectual property, an information department, a legal department, and an economic organizational department. Moreover, editing and publishing and educational enterprises, regional affiliates, and so forth, which perform individual functions that are attached by law to the office, can be associated with the office. For the management of such an office its director (president) will require a very small staff—20-30 people. In this case the patent office actually turns into a unified federal service, while Rospatent in case of such a transformation is turned from a part of the staff of an administration of the Ministry of Science, the Higher School, and Technical Policy of the Russian Federation into the organizational nucleus of the new office.

A portion of the functions of the federal patent service on the identification of future inventions and other objects of intellectual property and on the implementation of the rights, which follow from patents and other protective documents, as before, can be performed by the patent subdivisions of enterprises. The permanent

and substantial reduction of the number of these subdivisions is the only obstacle in the way of such a redistribution of functions, since the putting of the Patent Law into effect was dragged out for many months and the executives of enterprises are not interested in the preservation of services which do not yield an immediate return. A small portion of the patent personnel were able to transfer to independent private patent bureaus, but their formation is being checked by the lack of a statute on patent agents and by the impossibility of registering agents under the office, which is also due to the delay in putting the Patent Law into effect.

With the increase of the number of patented inventions the group of tasks facing judicial bodies is expanding substantially. For the settlement of disputes of applicants with the patent office the organization of the Supreme Patent Chamber (essentially a Patent Court) is envisaged in the Patent Law. Work on the organization of this chamber is also envisaged in the assignment of the government of the Russian Federation.

The Laws "On the Legal Protection of Computer Programs and Databases" and "On the Legal Protection of Topologies of Integrated Circuits" are also included in the set of laws on the protection of intellectual property. For the implementation of the functions on the official registration of these objects and the guarantee of the rights, which follow from this registration, the Ministry of Science of the Russian Federation in November 1991 established the Russian Agency for the Legal Protection of Computer Programs, Databases, and Topologies of Integrated Circuits (RosAPO). The assignment of the government of the Russian Federation of 25 July 1992 envisages the reworking of the charter of the RosAPO in conformity with the norms of the above-mentioned laws. The agency is a state enterprise, to which there have been assigned functions on the drafting of the corresponding legislative and standard methods acts, the registration of computer programs, databases, and topologies in accordance with the law, the registration of contracts for registered objects, the maintenance of the corresponding registers and databases, and the publication of official bulletins. RosAPO is given in accordance with the charter the right to render associated legal, information, and consultative services (on the basis of contracts with authors or other holders of rights).

It is obvious that such an approach to the copyright protection of computer programs and databases is in complete keeping with the practice of the European countries, the United States, and Japan and is in line with the terms envisaged in Article 8 of the Trade Agreement with the United States and in the exchanged letters on this agreement.

In conclusion it is possible to note that several recent publications, which set forth the private opinion of specialists of the Constitutional Law Administration (GPU) and the Research Center of Private Law (ITsChP) attached to the president of the Russian Federation (see ROSSIYSKAYA GAZETA of 12 August 1992 and



MOSKOVSKIYE NOVOSTI of 18 August 1992), explain thoroughly why the Patent Law was returned for reconsideration to the Supreme Soviet. Thus, S. Pashin in MOSKOVSKIYE NOVOSTI asserts that many acts, which are passed by the Supreme Soviet, have time to become obsolete by the moment of their signing (and this occurred with more than half of the laws which were passed by the last session). In a ROSSIYSKAYA GAZETA interview S. Khokhlov asserts that specialists of the ITsChP directed the attention of legislators to the substantial drawbacks of the Patent Law. However, if we analyze the corresponding conclusion of these specialists with regard to the Patent Law, there is indicated in it only the contradiction of this law with Article 81-1 of the Constitution in the area of the joint legal regulation of intellectual property by the Federation and the republics and the unfortunate nature of the corresponding wording of point 1 of the statute on putting the law into effect. These contradictions were analyzed in RADIKAL (Nos 28 and 31) and are due to the contradictions of Articles 72 and 82-1 of the Constitution, but not of the Patent Law proper. I would like to get from dear Candidate of Juridical Sciences S. Pashin comments on the following phrase: "In case of the reconsideration of the Patent Law of the Russian Federation in the Supreme Soviet of the Russian Federation I consider it necessary to revise a number of substantial provisions of the Law." (Given the absence in the conclusion of any instructions on if only one such substantive provision.) If in a similar manner a legal examination of the other laws, which were returned for reconsideration, had been made, it is in no way possible to reproach the Supreme Soviet for reconsideration. In such a situation one should distribute the functions more reasonably among the experts of the ITsChP, the GPU, and RAIS, which in conformity with the statutes on them are called upon to prepare expert conclusions in the area of legislation on the protection of objects of intellectual property.

#### Problems Seen in Vetted Patent Law

927A0295A Moscow DELOVOY MIR in Russian  
3 Sep 92 p 10

[Article by Candidate of Technical Sciences Moisey Gelman: "The Phantom of the Patent Law, or on How To Privatize Other People's Brains in the Departmental Way"—first three paragraphs are DELOVOY MIR introduction]

[Text] On 30 July of this year the draft of the patent law, which had been passed by the Supreme Soviet of the Russian Federation, in accordance with the conclusion of the Constitutional Law Administration attached to the president of the Russian Federation, was returned to the Supreme Soviet for new consideration.

In the opinion of our authors Moisey Gelman ("The Second Line of Defense Is From the Market and Inventors," DELOVOY MIR, 10 June 1992) and Valeriy Mamayev ("Hara-Kiri...", DELOVOY MIR, 20 June 1992, and "But Was There a Boy?" DELOVOY MIR, 22

August 1992), the reasons for the untenability of this draft law lie in itself. They are fundamental. And, one must suppose, this opinion was taken into account by the experts of the Constitutional Law Administration.

The editors asked Moisey Gelman, a candidate of technical sciences and the author of 77 inventions, to comment on the formed situation.

I do not know the real reasons of the experts of the Constitutional Law Administration, by which they were guided in returning the draft law for reconsideration. However, I would like at least of all for them to turn out to be purely formal. For the story with the patent law has been going on for about 10 years. This is far from the first version of the draft law, which testifies that its authors lack a clear conceptual base. It seems that precisely for this fundamental reason the necessary grounds for passing the law were not presented to the deputies of the Supreme Soviet.

The second fundamental reason for the untenability of the passed draft is the lack of preparation of many deputies for the discussion of this problem.

The third reason is the lack in the law of a definition of the object of protection, as well as the protection of all the rights of the basic subject—the invention.

The fourth is the formal carrying over of the norms of foreign patent legislation to our unprepared economic environment and the disregard of the interests of domestic commodity producers. Incidentally, this is also typical of the policy of the present government.

When reading the draft of the law you involuntarily recall the children's tale, in which one character sends another to go I do not know where and to fetch I do not know what. It is surprising, but the authors of the draft did not formulate the object proper, which the law is called upon to protect. That is, the invention. What is this? Legal incompetence or the desire to create troubled surroundings for catching a fish? A big one and a small one. Only features of the phantom—"I do not know what"—the evaluation of which is very subjective, are indicated. And one of them—industrial applicability—blocks the path of advanced solutions which are ahead of their time.

The lack in the evaluation of an invention of such an integral criterion as the achievement of an increasing positive impact as compared with known solutions (incidentally, one such solution is sufficient for the qualification of an invention) will provoke the theft of ideas and the obtaining on their basis of "one's own" patents. Even though with a negative impact. Such patents in an economy, which is self-regulating through the market, are seized. Under our conditions of monopolism and the impoverishment of inventors the painted picture, it seems, will become an ordinary thing. Moreover, they will try to buy an idea standing, before its patenting. And they will push aside the obstinate author in accordance with the new law. Incidentally, the management of

Rospatent [the Committee for Patents and Trademarks of the Ministry of Science, the Higher School, and Technical Policy of the Russian Federation], the new monopolist, acted more simply. As of 1 March of this year it illegally revoked the possibility of exchanging USSR authorship certificates for patents. The intention is simple. To seize them. In accordance with the new law. Thereby several hundred thousands inventors were, in essence, robbed. They deprived them of the opportunity to become the owners of their own original capital. Strictly speaking, in many respects the draft law being discussed is aimed namely at such "protection" of the rights of inventors—to remain destitute.

The numerous fees, which the inventor should pay at all stages—from the submission of an application to the issuing and maintenance of a patent—led to the sharp decrease of the number of new inventions. According to some estimates, by a factor of 10 to 20.

The basic mistake (if this is a mistake) of the authors of the draft law is the carrying over of foreign norms of invention and patent law to our present environment. Without the proper analysis of both the norms themselves and their potential impact on the domestic economy in its present state. Under these conditions and given the destruction of the scientific and engineering potential of the country a direct road for foreign patent expansion to our market will be opened. And since our destitute Kulibins are incapable of paying the sum for patents, which is rather large for them, we will be forced in many cases to cede our rights to one product or another. And to lose money. Slipping deeper and deeper into the quagmire. In this way the development of negative trends in the economy will be induced, inasmuch as the draft law being discussed does not take into account the necessity of the emergence of a domestic commodity producer.

It is necessary to correct the draft of the law substantially. Including on the basis of the necessity of the emergence as subjects of the market not of bureaucrats of Rospatent, but of domestic inventors. For this it is first necessary to abolish all the fees, which are used for the sustenance of bureaucrats. And to begin to collect them annually only after the passage of three years from the day of the issuing of the patent. Such, for example, is the minimum time of the introduction of an invention in production. It is also necessary to renew the issuing of authorship certificates as safe-conducts of the rights of the author and of patents, which give the right to use inventions. After all, far from all inventions are introduced immediately. Why pay a fee in such cases? Otherwise inventors will lose the stimulus to create for the future. For which both Russian and Soviet specialists were traditionally noted.

In addition to the federal fund private funds of patents and inventions should also be established. With equal rights and duties. Moreover, the funds should not only buy up the rights to use inventions, but also be middlemen in the sale of patents.

It seems advisable to organize the Federal Fund under the Scientific Research Institute of State Patent Examination. This will create a powerful material stimulus for experts to conduct more promptly and in a higher quality manner the examination of promising applications. From the standpoint of their patenting and the sale of patents in consultation with the authors for specific recompense. Conspiracy in this case will be eliminated, since the sale of patents will be determined by market demand, not by the cunning of the high contracting parties. This will also be one of the mechanisms of the observance of the interests and rights of both inventors and the state in the person of the Scientific Research Institute of State Patent Examination. Thereby this institute will be interested in the largest possible flow of applications and their quickest consideration. For its profit will depend on this. But not by means of the extortion of fees, but as a result of the subsequent commercial activity of its Federal Fund. True, here Rospatent will not be out of work. But it will be of the same good for all the rest. Therefore, it is necessary to remove the question of the Federal Fund from the law.

Undoubtedly, the time of the initial consideration of applications should be limited to four to six months. And not a year, as according to the law. Practical experience shows its adequacy. And necessity, from the standpoint of the protection of the interests of authors and the state. Including material interests. Incidentally, the place for this question, just as many others on the procedure of the consideration of applications and the issuing of patents, is not in the law, but in the corresponding departmental instructions. Lawyers should understand this.

Newspaper pages make it possible merely to indicate the problem. It was also indicated in the above-mentioned articles—mine and those of Valeriy Mamayev. But neither the Committee for Science and Public Education of the Supreme Soviet of the Russian Federation nor Rospatent got around to giving a straight answer. Is there, perhaps, nothing to say?

The drawing up of the draft law and its discussion in the Supreme Soviet of the Russian Federation were of an obviously closed-door nature. It was inaccessible for preliminary familiarization by broad groups of specialists. The official drafter of the law—the Committee for Science and Public Education of the Supreme Soviet of the Russian Federation in the person of its executives—rejected all criticism. Especially from outside. To the detriment of state interests.

What is this? The thoughtlessness of the chosen representatives of the people? Or a primitive form of lobbying? Which is supported by infrequent telegrams of the All-Union Society of Inventors and Efficiency Experts with the notes "we approve" on behalf of and on the instructions of....

They tell that one Japanese businessman amassed a fortune in the millions by patenting ideas which he read in our popular science journals. Today a fight behind the

scenes for a tasty morsel—domestic patents—is taking place. In order also to get richer. At the expense of the bulk of destitute inventors. A modified form of the project of the departmental privatization of intellectual property is present. And by checks for the public. Moreover, before the zeros of the sum on these checks there are no other figures.

### **RAS Presidium Reviews Policy on Registering Discoveries**

#### **Background Discussion**

927A0296A Moscow NEZAVISIMAYA GAZETA  
in Russian 15 Sep 92 p 2

[Article by Yuriy Meshkov: "Will Scientists Acquire Ownership of Their Works?"]

[Text] The Presidium of the RAS [Russian Academy of Sciences] will consider today the question of the legal protection of discoveries. Against the background of the developing campaign on the privatization in all respects of state property the scientific world of Russia is displaying rare indecision in the granting of the rights of property to scientific discoveries. On 20 March of this year NEZAVISIMAYA GAZETA wrote about what the rejection of state examination, which establishes the authenticity of discoveries, as well as the priority of the authors and the country, threatens. Nevertheless in the spring of last year the former USSR Supreme Soviet

endorsed the abolition of the institution of the registration of scientific discoveries, having thereby deprived scientists of the right to intellectual property.

As the supporters of registration note, this decision was made only owing to the fact that the union parliament has been misled by the elementary juggling and distortion of the facts. According to the information the editors have, the draft of the decision of the Presidium of the RAS, which Russian academicians should consider today at their first meeting after summer vacation, is also not innocent in this respect. The question, which was submitted to the Presidium, for the present remains open: "To consider the state registration of discoveries advisable (inadvisable)." What will the academicians cross off?

#### **Earlier Decision Reversed**

927A0296B Moscow NEZAVISIMAYA GAZETA  
in Russian 17 Sep 92 p 1

[Article (PRESS SERVICE OF THE RUSSIAN ACADEMY OF SCIENCES): "The Decision of the Russian Academicians"]

[Text] The Presidium of the Russian Academy of Sciences made the decision on the revival of the practice of the state registration of discoveries. In May of last year in accordance with its decision registration was abolished as not ensuring the objective evaluation of scientific achievements.

**France, Russia Sign S&T Cooperation Agreement**

92WS0778A Paris AFP SCIENCES in French 30 Jul 92  
pp 1, 2

[Text] Moscow—An agreement between Russia and France to step up "general collaboration" in science and technology was signed 28 July in Moscow by Boris Saltykov, Russia's minister of science, and Hubert Curien, the French minister of research and space.

The agreement calls for the two countries to work together to carry out "large projects or programs," "contribute to research on basic questions concerning the development of science and technology, including science and technology policy," and create "the material conditions" necessary for bilateral or multilateral initiatives in basic research.

The two parties will also strive to "broaden and encourage collaboration between them in industrial research and new technologies" and "promote the creation of joint projects that could be incorporated into current and future European and international programs." Such collaboration could take the form of researcher and engineer exchange programs, internships, and sister laboratory arrangements.

"We have deliberately avoided drawing up a restricted list of specific areas," said Mr. Curien during a press conference at the French embassy in Moscow. "But a Franco-Russian committee will draw up an initial list spelling out the topics for joint work, and the top scientific priorities, that are the most promising."

During the period between August, 1990 and the end of June, 1992, CIS researchers were awarded, among other things, 206 six- to twelve-month postdoctoral grants, and nine six-month industrial research grants. Thirty researchers were hosted last year, for periods of six months, as part of sister-organization agreements between the physics department of the Paris Ecole Normale Supérieure and the Moscow Landau Institute, and the department of theoretical and high energy physics of the Paris-VI and Paris-VII Universities and the Institute Steklov of Saint-Petersburg. Thirty-three researchers should benefit from such arrangements in 1992.

The Research Ministry used some of its own money available through the ACCES program to host 515 former Soviet researchers at 100 symposia. Twenty-eight French researchers traveled to Russia for summer schools through the PARCECO program.

With the support of MICECO, all of France's large research organizations (National Center for Scientific Research, National Health and Medical Research Institute, National Institute for Research on Data Processing and Automation, French Institute for Research on Exploitation of the Ocean, National Agronomic Research Institute, etc.) are planning initiatives with CIS counterparts in various fields, including molecular and cellular biology, cancerology, the environment, electronics, oceanography (fishing techniques, marine biology, and aquaculture), agronomy, and plant production. The Atomic Energy Commission has ties with several Russian research organizations, to pursue joint projects in nuclear safety and in basic research on surface and particle physics and astrophysics. Moreover, the National Center for Scientific Research is expected to sign a new agreement with the Russian Academy of Sciences this fall.

Mr. Curien reminded reporters that the European Community had just given the nod to the creation of a Research Foundation to aid the former USSR in various fields of civil research. It will be modeled after the International Center for Science and Technology that links France to Germany and the United States, and whose goal is to help reconvert military, and especially nuclear, companies into civilian ones.

The French minister took advantage of a stopover in Moscow to sign the collaboration agreement with Mr. Saltykov. He was there on his way back from Baikonour in Kazakhstan, where he watched the departure of the third Franco-Russian space mission, the Antares, on 27 July. The next day Mr. Curien signed a protocol spelling out the exact conditions and prices of the four other Franco-Russian flights that were planned before 2000 in the skeleton cooperation agreement<sup>1</sup>.

**Footnotes**

1. See chapter on "Space."



**Russian Presidential Actions on Intellectual Property**

**Presidential Order on RAIS**

937A0001A Moscow DELOVOY MIR in Russian  
11 Aug 92 p 14

[Order No. 367-rp of President of the Russian Federation B. Yeltsin of 15 July 1992 "Questions of the Russian Intellectual Property Agency Under the President of the Russian Federation"]

[Text] In connection with the establishment of the Russian Intellectual Property Agency Under the President of the Russian Federation I resolve:

1. To approve the proposed Statute on the Russian Intellectual Property Agency Under the President of the Russian Federation (RAIS).

2. To assign to the RAIS the functions of the abolished USSR State Agency for Copyrights and Related Rights on the collection, receipt, distribution, and payment of the author's award (royalties), which is envisaged by prevailing legislation of the Russian Federation, for the public performance of works, the release of works on records and other types of mechanical and magnetic recording, and the use in industry of works of decorative applied art.

The users of works are obliged on an unpaid basis to make available to the RAIS the information necessary for the performance of the indicated functions.

3. To authorize the RAIS to carry out in consultation with interested departments the representation of the Russian Federation in the Intergovernmental Committee of the World Copyright Convention and in other intergovernmental organizations in the sphere of the protection of copyrights and related rights.

4. To approve the maximum number of personnel of the central staff of the RAIS at 257 (excluding personnel for the protection and maintenance of buildings) and the fund for the remuneration of labor for the second quarter in the amount of 2,233,400 rubles, as well as the maximum number of personnel of the regional departments of the RAIS at 123.

5. To commission the Ministry of Labor and Social Policy of Russia in consultation with the Ministry of Finance of Russia within a two-week period to submit to the Government of the Russian Federation proposals on the terms of the remuneration of the labor of the personnel of the regional departments of the RAIS.

The RAIS jointly with the Ministry of Finance of Russia within a week is to submit to the Government of the Russian Federation proposals on the fund for the remuneration of the labor of the personnel of the named departments.

6. To call the director of the RAIS henceforth the general director of the RAIS. To permit the RAIS to have three deputy general directors, including one first deputy general director, and a collegium consisting of 11 people.

7. To establish that the central staff of the RAIS and its regional departments are financed by means of allocations for the maintenance of bodies of state administration, which are envisaged under the republic budget of the Russian Federation.

8. To equate the personnel of the central staff of the RAIS with regard to the terms of the remuneration of labor with the corresponding categories of personnel of the staff of committees under the Government of the Russian Federation.

[Signed] President of the Russian Federation B. Yeltsin  
15 July 1992

No. 367-rp

**Statute on RAIS**

937A0001B Moscow DELOVOY MIR in Russian  
11 Aug 92 p 14

[Statute on the Russian Intellectual Property Agency Under the President of the Russian Federation]

**[Text] I. General Provisions**

1. The Russian Intellectual Property Agency Under the President of the Russian Federation (RAIS) is a federal department, which formulates and implements state policy in the sphere of the protection of copyrights and related rights.

The RAIS is subordinate to the President of the Russian Federation and is accountable to him.

2. The creation of favorable legal conditions for creative activity in the sphere of literature, art, science, and other intellectual activity, as well as for the assurance of the protection of copyrights and related rights is the goal of the RAIS.

3. In its activity the RAIS is guided by the Constitution of the Russian Federation, by the laws and other legal acts of the Russian Federation, by the international treaties of the Russian Federation in the sphere of the protection of copyrights and related rights, as well as by this Statute.

4. The RAIS is a legal person and has a seal with a picture of the State Emblem of the Russian Federation and with its names, the corresponding seals and stamps, and accounts at banks, including foreign exchange accounts.

**II. The Tasks of the RAIS**

1. The basic tasks of the RAIS are:

the drafting and submission for consideration by the President of the Russian Federation of proposals on the

formulation and implementation of state policy in the sphere of the protection of copyrights and related rights, on the improvement of legislation in this area;

the coordination of the activity of central bodies of executive power and interaction with committees on questions that fall within the jurisdiction of the RAIS;

the assurance of the unity of the legal protection of copyrights and related rights on the entire territory of the Russian Federation;

the promotion of the formation of societies for the management of copyrights and related rights on a collective basis, as well as organizations (agencies) for the cession and acquisition of copyrights on an individual basis;

the elaboration jointly with law enforcement and other state bodies of steps on the combating of the illegal use of objects of copyrights and related rights;

the promotion of the formation of legal standards in the sphere of the protection of intellectual property;

the promotion of the expansion of international cultural and scientific and technical cooperation, the exchange of cultural values; participation in the work of international organizations in the sphere of the protection of copyrights and related rights.

### III. The Functions of the RAIS

6. The functions of the RAIS in conformity with the tasks assigned to it are:

the preparation of drafts of laws of the Russian Federation, ukases, orders of the President of the Russian Federation, and decrees of the Government of the Russian Federation in the sphere of the protection of copyrights and related rights;

the preparation and submission for consideration by the President of the Russian Federation within the jurisdiction of the RAIS of conclusions and substantiations with regard to laws, which are submitted for signing to the President of the Russian Federation, drafts of laws and decrees, which are submitted to the President of the Russian Federation for submission to the Supreme Soviet of the Russian Federation by way of legislative initiative, drafts of decrees of the Government of the Russian Federation, drafts of international treaties and agreements of the Russian Federation in the area of the protection of copyrights and related rights;

the monitoring of the observance of the legislation of the Russian Federation on the copyright and related rights for the purposes of the defense of the interests of the creators of intellectual property;

interaction with the state bodies and organizations of the republics within the Russian Federation, which are in charge of questions of the protection of copyrights and related rights;

the drafting and submission of proposals on international cooperation of the Russian Federation in the sphere of the protection of copyrights and related rights, participation in accordance with established procedure in the preparation and conclusion of international treaties of the Russian Federation on the protection of copyrights and related rights;

the drafting of proposals on the legal protection of the results of intellectual activity, which are not protected by prevailing legislation of the Russian Federation;

the collection, receipt, distribution, and payment in accordance with prevailing legislation of the author's fee for the public performance of works, the release of works on records and other types of mechanical and magnetic recording, the use in industry of works of decorative applied art;

the systematization of information in the sphere of the protection of copyrights and related rights;

the establishment of a data bank, the assurance of the access of interested persons, institutions, and enterprises to the information system of the RAIS; the publication of information bulletins, reference works, collections of standard acts;

the assistance of the holders of copyrights and related rights in the implementation of their rights on an individual basis, the rendering to Russian and foreign holders of rights and users of consultation services and legal assistance with regard to the protection of copyrights and related rights in the Russian Federation and abroad;

the promotion of the training of skilled specialists in the sphere of the protection of copyrights and related rights, participation in the development of the corresponding curricula for educational institutions of the Russian Federation;

the study of the practice of the application of the legislation of the Russian Federation and international experience in the area of the protection of copyrights and related rights;

the organization of international conferences and symposiums, trade fairs, exhibitions, festivals, and other scientific, cultural, and information measures in the Russian Federation and participation in analogous measures abroad;

the performance of other functions, which are based on the legislation of the Russian Federation or follow from the participation of the Russian Federation in international multilateral and bilateral agreements on the protection of copyrights and related rights.

### IV. The Rights of the RAIS

7. The RAIS in conformity with the functions and tasks, which have been assigned to it, has the right:

to submit for consideration by the President of the Russian Federation and the Government of the Russian Federation of drafts of laws and lawful standard acts in the sphere of the protection of copyrights and related rights;

to issue in accordance with established procedure instructions and explanations, which are mandatory for fulfillment by all ministries, departments, organizations, as well as users of works and objects of related rights for the purpose of the assurance of the uniform application on the entire territory of the Russian Federation of legislation on the copyright and related rights;

to obtain in accordance with established procedure from ministries and departments, organizations and institutions of the Russian Federation necessary information;

to carry out the monitoring and verification of the fulfillment of the decisions of the President of the Russian Federation and the Government of the Russian Federation on questions which fall within the jurisdiction of the RAIS;

to ensure in consultation with interested departments the participation of the Russian Federation in intergovernmental and nongovernmental international organizations for questions of copyrights and related rights;

to participate in talks on the accedence of the Russian Federation to prevailing conventions and agreements, as well as on the drafting of new international treaties in the sphere of the protection of copyrights and related rights;

to open in accordance with established procedure its own representations abroad and to have regional departments in the Russian Federation;

to apply to the court with statements of claim in defense of the rights and legal interests of authors, other holders of rights on their instructions;

to participate on the basis of the powers, which are granted by the holders of copyrights and related rights, in the conclusion of contracts on the exercise of the indicated rights in the Russian Federation and abroad;

to pay the author's fee, which is received from abroad, in currency as prescribed by legislation;

to open in accordance with established procedure accounts, including foreign exchange accounts, at banks which are authorized to do this;

to conclude agreements on cooperation with the corresponding foreign organizations which deal with questions of the protection of copyrights and related rights;

to conduct in accordance with prevailing legislation information, advertising, and publishing activity in the Russian Federation and abroad, to found mass media;

to participate in cultural philanthropic, humanitarian, and other domestic and foreign foundations;

to establish temporary creative collectives, other organizational structures, which contribute to the accomplishment of the tasks and functions of the RAIS;

to enlist for consultations specialists and experts, including foreign specialists and experts, using for these purposes budget and nonbudget assets;

to establish independently the forms and systems of the remuneration of labor in the RAIS, to specify the amounts of increments, supplementary payments, bonuses, and other payments of a stimulating nature, as well as the structure and staffs without regard for the ratios of the number of personnel of different categories;

to have nonstaff inspectors for the accomplishment of individual tasks and functions of the RAIS, to specify their number, the procedure and amount of the remuneration of labor.

#### V. The Organization of the Activity of the RAIS

8. The general director, who is appointed to the position and is relieved of the position by an Ukase of the President of the Russian Federation, heads the RAIS.

The general director has deputies, including one first deputy, who are appointed to the position and are relieved of the position by an order of the President of the Russian Federation on the representation of the general director. The distribution of duties among the deputies is carried out by the general director.

9. The general director supervises the activity of the RAIS and bears personal responsibility for the fulfillment of the tasks and functions, which have been assigned to the RAIS, approves the structure and the manning table of the staff of the RAIS within the limits of the established number and fund for the remuneration of labor, drafts and approves statutes on the structural subdivisions of the RAIS and on institutions and organizations of immediate subordination, carries out the hiring of management personnel and specialists, including on a contractual basis, establishes the rate of spending of assets on the implementation of measures which are connected with the activity of the RAIS.

10. The general director and his deputies within the limits of their jurisdiction promulgate orders, instructions, and other departmental standard acts.

11. The collegium, which is a consultative body, is formed in the RAIS. There belong to the collegium: the general director (the chairman of the collegium) and his deputies by virtue of their position, other personnel of the RAIS, as well as leading specialists for questions of the protection of intellectual property. The members of the collegium, except for the persons who belong to it by virtue of their position, are approved by an order of the President of the Russian Federation.

The collegium considers the most important questions which ensue from the goals, tasks, and functions of the RAIS. The decrees of the collegium are adopted by a



majority of votes and are implemented by orders of the general director of the RAIS.

An authors' council made up of authors and other holders of rights for the examination of questions of the collection and distribution of the author's fee is formed in the RAIS.

12. The financing of the activity of the RAIS is carried out by means of assets of the republic budget of the Russian Federation and other sources, which are not at variance with prevailing legislation.

13. The amount of the commission deductions from the sums of the fee, which is collected by the RAIS in conformity with prevailing legislation and is received under contracts on the mutual representation of interests with foreign authors' societies, is specified annually by the RAIS with allowance for the decision of the authors' council.

14. Fixed and working capital, as well as other physical assets and financial resources constitute the material and technical base of the RAIS. The RAIS has a currency fund, which is formed by means of commission deductions and other assets in foreign currency, which are received from Russian and foreign legal persons and citizens. The Statute on the Currency Fund of the RAIS is approved by the general director of the RAIS on the basis of the decision of the collegium.

15. The RAIS has:

a current foreign exchange balance account of economic activity, in which currency assets are entered and from which expenditures in foreign currency for the conducting of the international and economic activity of the RAIS are made;

a current foreign exchange account for settlements in foreign currency with Russian and foreign authors and holders of related rights in accordance with the fee, which is received from abroad and from Russian users;

a current foreign exchange account, to which there is transferred the limit in foreign currency, which is specified by the Government of the Russian Federation, for settlements with foreign authors' societies in accordance with contracts on the mutual representation of interests, as well as for settlements with foreign holders of rights in accordance with contracts which were concluded with the participation of the RAIS.

16. The location and legal address of the RAIS is: 103670, Moscow, Bolshaya Bronnaya Ulitsa, Building 6a.

#### **RAIS Chief Comments on Responsibilities**

937A0001C Moscow DELOVOY MIR in Russian  
11 Aug 92 p 14

[Interview with Eduard Renov, deputy general director of the Russian Intellectual Property Agency Under the

President of the Russian Federation, by DELOVOY MIR commentator Yuriy Kon; date and place not given: "The RAIS Is Prepared To Defend the Rights of Authors"—first paragraph is DELOVOY MIR introduction]

[Text] Deputy General Director of the RAIS Eduard Renov gave in an interview with Yuriy Kon, a commentator of our newspaper, several explanations to the published decree.

[Renov] The RAIS will carry out the defense of copyrights to any objects of intellectual property, except for industrial property. The problems of the defense of the intellectual ownership of inventions and efficiency proposals fall within the jurisdiction of Rospatent [the Committee for Patents and Trademarks of the Ministry of Science, the Higher School, and Technical Policy of the Russian Federation]. As for computer programs, which in Russia began to be recognized as objects of intellectual property only as of 1 July of this year, the RAIS considers the defense of the authors and owners of programs to be its duty and is establishing a new service for this.

In contrast to its predecessor—the VAAP [All-Union Copyright Agency]—which imposed its services on authors, the RAIS will render services only in accordance with concluded contracts.

The author of any work, regardless of the genre, can conclude a contract with the RAIS on the dissemination of his works and on the defense of copyrights both in Russia and abroad. And this assignment will be fulfilled for a 20 percent commission.

Earlier this percentage was much higher and, moreover, the VAAP actually performed the role of a censor, restricting or, on the contrary, encouraging the promotion abroad of some works or others, most often of all for ideological reasons.

Major task now face the RAIS for the guarantee of the rights of authors and performers of musical and dramatic works of different genres.

Prior to 14 July 1992 neither radio stations, discotheques, nor restaurants ought to have received permission for the broadcasting or the performance of these works from the authors and in the majority of cases they even did not pay them royalties.

Now the RAIS is assuming the function of eliminating these infringements of copyrights. In consultation with the authors and performs, the RAIS will issue general licenses for the right to perform or broadcast the works of some authors or others. Today the number of these authors exceeds 12,000.

Discotheques and restaurants will pay a specific percent of the receipts. The regional departments of the RAIS will issue licenses for the right to use the works of different authors at these enterprises. Under this license discotheques and restaurants should give reports with an



indication of the repertoire, which will make it possible to distribute the received sums among the authors.

The royalty rates are established by the authors' council under the RAIS, to which 65 most authoritative composers and performers belong.

The RAIS carries out the defense of the rights of not only Russian, but also foreign authors and performers. As a rule, the defense of foreign authors and performers is carried out on the basis of bilateral agreements between the RAIS and the corresponding organizations of other countries. For example, several similar organizations, one of which carries out the defense of the rights of authors in case of mechanical recording, exist in the United States.

For us the combating of video and audio piracy is the most difficult problem in connection with the abundance of users. At the same time this piracy is evoking the largest number of protests on the part of both our and foreign authors. The RAIS cannot manage alone. On our initiative a conference of representatives of law enforcement and tax bodies for the elaboration of a solution of this problem will be held in September.

In October I will tell the readers of DELOVOY MIR with pleasure about the taken steps and what the first results of the activity of the RAIS are.

#### Academy Voting Pattern Analyzed Because of Anti-Semitism Charges

927A0298A Moscow *RADIKAL* in Russian No 33 (90), Sep 92 p 10

[Article by Vladimir Pokrovskiy under the rubric "Life of the Academy": "They Simply Conspired Among Themselves"—first two paragraphs are *RADIKAL* introduction]

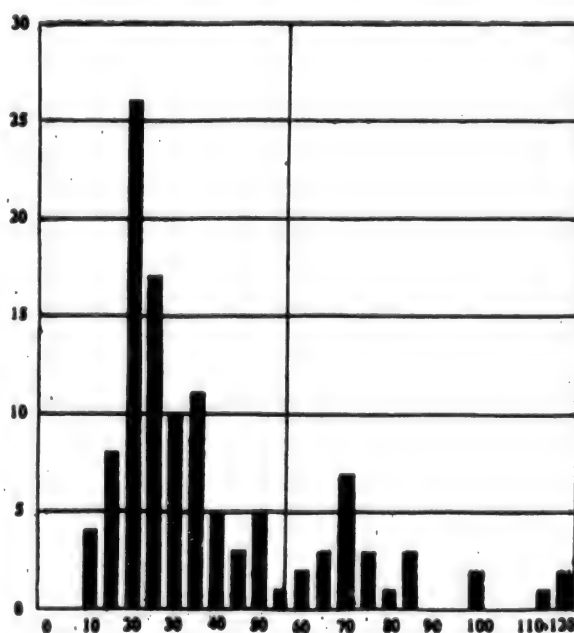
[Text] It appears that the strange bout of anti-Semitism, as well as xenophobia in general, of which they began to accuse our academicians after the June election to the RAS [Russian Academy of Sciences], has found an explanation which to some degree vindicates our "immortals." And it is will a matter here not at all of the fact that the term "xenophobia" is applied in this case not entirely correctly, inasmuch as representatives of political science, economics, and such other humanities directions, as well as scientists, who became famous as political figures, were voted down together with Jews and Georgians—apparently, the point "anti-Semitism" was singled out by the scientific community specially due to its extreme painfulness. It is possible that the level of academic xenophobia, sociophobia, as well as politophobia increased negligibly since the day of the preceding election, in any case, it was not what was the cause of the "day of blackballs," most likely an ordinary conspiracy occurred.

Doctor of Philosophical Sciences Eduard Mirskiy, editor in chief of the electronic journal KURYER RAN, came to such a conclusion, having analyzed the voting results.

He presented the voting results as a graph, to which we call the attention of the readers. The number of academicians, who voted against one candidate or another, are plotted along the horizontal axis (X) of the graph, the number of candidates, whom the given number of academicians did not want to see in their ranks, is plotted along the vertical axis (Y).

The obtained distribution differs substantially from the one we would have in case of the normal voting of persons who act independently of each other. In the standard case the graph should resemble a Gaussian curve, which has a maximum at zero. The actual distribution has three features which distinguish it from the standard distribution. The first is that the maximum is located not at zero, but is slightly displaced (it is not entirely clear why, we leave the interpretation for the curious). The second is that in the region of the bound, which separates the elected candidates from the rejected candidates (in the graph this bound is located in the region of X=56 and is indicated by the vertical line), an anomalous decrease of the number of candidates is observed; in other words, the number of candidates, with respect to whom the academicians displayed uncertainty, is significantly less than the number which there could have been in case of an independent course of voting. This point can have various interpretations. In particular, in our opinion, it is easy to explain it, if we

Voting Result. X axis—number of votes against; Y axis—number of candidates



recall that before the election the academician secretaries of many departments, as if sensing the impending disgrace, asked their members not to settle scores and to behave properly, that is, as far as possible not to turn anyone down. It is possible that the academicians heeded the appeal only in part, having decided to leave in peace those, with respect to whom they had doubts.

The third feature, the main one is: Instead of one maximum the graph has two maximums, which, in the opinion of Mirskiy, unequivocally testifies to the existence of a group of people who came to an understanding among themselves to shower with "blackballs" specific candidates. Indeed, take a look: The situation appears as if they dragged the bar with a height of 7 by force from its natural place in the region of  $X=30$  to 40 to the right by 30-35 units. Calculations show that it is entirely possible to explain this by the fact that a group of 40-45 people, who conspired to block people they did not like, had acted during the voting.

It is difficult for us to judge the statistical reliability of the data and the other mathematical subtleties, which inevitably accompany analyses of this sort—we are citing the graph in order that the reader, who is more skilled in these matters than we are, could form his own opinion. It nevertheless seems to us that the results of the conducted analysis are quite capable of corresponding to the real state of affairs.

But if this is so, it turns out that our academicians had begun to play parliamentary games—either because among some of the "old men" what was sore and what was cherished had finally come to the surface or the fresh blood of the recruitment of the Russian Academy of Sciences had begun to seethe.

It is comforting that what has been said concerns only a small (although substantial, as it turns out) part of the academy membership. The fact that such a game can be won only once, because as soon as the opposing side sees through what is going on, it will immediately begin to place its own blocks with all the ensuing consequences, which have a diagnosis, which is well known in our country, by the name of "parliamentary crisis," is also cause for optimism. It is only a pity that all this is happening in a community, which is or is obliged to represent the scientific elite, that is, people who are wise, highly educated, and very cultured and evoke constant respect for themselves. For the present there is a strained situation with respect.

**POISK Science News Briefs 15-21 Aug 92**  
927A0298B Moscow POISK in Russian No 34 (172),  
15-21 Aug 92 p 2

[Article]

[Text] Figure

It will be necessary to develop 400-500 textbooks of a new generation in the next four to five years in order to ensure the reform of the school.

#### Quotation

"In Russia there is practically no demand for high technologies, therefore, we have to seek a market outside it."

Boris Saltykov, Minister of Science, the Higher School, and Technical Policy of the Russian Federation

#### Fact

Aleksandr Granberg and Nikolay Malyshev now are not state advisers of the Russian Federation. In connection with the transformation of the position of state adviser into the position of adviser to the president of the Russian Federation they have been appointed respectively: adviser to the president for economic and social questions of the Commonwealth of States and adviser to the president for questions of science and the higher school.

- The official visit to Moscow and St. Petersburg of FRG Federal Minister for Research and Technology Dr. H. Riesenhuber took place.

The minister formulated as follows the goal of the trip: during the talks to familiarize himself in detail with the state and problems of research and development in Russia in order to organize cooperation most effectively, particularly measures on the support of Russian science.

During the official visit H. Riesenhuber met with B. Saltykov, with President of the RAS [Russian Academy of Sciences] Yu. Osipov, with A. Volskiy, president of the Russian Union of Industrialists, with Deputy Minister for Atomic Power V. Sidorenko, and with Yu. Koptev, general director of the Russian Space Agency. The German minister visited a number of academic institutes of Moscow and St. Petersburg and St. Petersburg University and spoke with St. Petersburg Vice Mayor V. Shcherbakov and scientists of Gatchina and Sosnovy Bor.

- An agreement on cooperation in the area of laser research and laser equipment has been concluded between the FRG Federal Ministry for Research and Technology and the Ministry of Science, the Higher School, and Technical Policy of the Russian Federation.

It envisages the cooperation of state structures of Germany and Russia in the financing and the conducting in both countries of basic scientific research in the area of laser technology.

- The 29th International Geological Congress will be held in Kyoto from 24 August to 3 September. Departments, committees, and working groups, which specialize in all fields of geology, will work at it.

Of particular interest among the problems, which will be discussed at the congress, are: "Global Changes of

Nature and the Climate," "The Development of the Earth's Crust in Connection With Horizontal Displacements," "The Results of Oceanic Deep-Sea Drilling," and "Cyclic Recurrence in the Development of the Climate and the Earth's Crust."

The delegation from Russia will be one of the most representative ones at the congress: There are more than 300 geologists in it.

- Several educational methods associations (UMOs) of pedagogical higher educational institutions in various directions have been established for the coordination of the scientific research and methods work of pedagogical higher educational institutions of Russia. The first association, which is dealing with general problems of pedagogical education, is based at the Russian State Pedagogical University imeni A. Hertsen. An educational methods association, which will elaborate problems of the training of teachers without leave from work, has been established on the basis of the Moscow State Open Pedagogical Institute. And all the scientific research of pedagogical higher educational institutions, which is connected with foreign languages, will now be supervised from the Ryazan Pedagogical Institute imeni S. Yesenin.
- An affiliate of the historical philology faculty has been established at the Russian State Humanities University. The specialties, in which it will be possible to study, are: psychology, political science, philosophy, and the theory of fashion and design.
- The first national congress on the problem of reading has opened in Ivanteyevka (Moscow Oblast). Russian psychologists, philologists, and educators will take part in it.
- A conference devoted to the 200th anniversary of the birth of prominent Russian mathematician Nikolay Lobachevskiy was held at Kazan University. Lobachevskiy was rector of this university during 1827-1846.
- The International Conference and Exhibition "Humanities Information Science" is being held in Moscow on 1-6 November. The International Center of Scientific and Technical Information and the Russian Independent Humanities University are organizing it. The basic themes of the conference are: the computerization of research in history, sociology, and linguistics, information databases for the humanities, and man-machine systems of the analysis of humanities information.

Send applications for participation in the conference by the end of August 1992 to the address: 125252, Moscow, Ulitsa Kuusinen, 21-b, the International Center of Scientific and Technical Information. Contact telephone numbers: 198-70-41, 198-13-41, 250-66-48.

### Journalist Warns of 'Cheap' S&T Deals With West

927A0291A *Moscow RADIKAL in Russian No 31 (88), Aug 92 p 9*

[Article by Marina Lapina: "Everything Is for Sale. The Story of One Contract"]

[Text] The start of this story, which is not yet over, but is very edifying, goes back to the fall of last year, when the mechanism of injecting fear of the mass exodus abroad of our specialists in the field of nuclear technologies was triggered both in the countries of the CIS and in the West. The levers, which put this mechanism into operation, were pressed at the most appropriate moment: The Union was in a state of disintegration. All its institutions—science like none other—were close to this state. For the majority of scientific institutions the problem of survival arose with hitherto unprecedented urgency. Including for the Kurchatov Institute, with respect to which back a few years ago owing to the fact that it belonged to the Minatommash such a statement of the question was absolutely ruled out.

In this situation the eyes of several associates of the institute were turned particularly intently toward the West, first of all the eyes of those who had strong and longstanding contacts with colleagues from abroad. The scientists, who are conducting research within the thermonuclear program, had and have such contacts. However you appraise the prospects of the development of thermonuclear fusion, one must admit that the high skill of our specialists in this field does not raise doubts anywhere. Although this circumstance awakened in western partners the desire to support Soviet (by this time Russian) colleagues in the difficult situation, the matter did not go farther than declarations.

In the fall of last year the situation changed: Our longstanding partners from the American firm General Atomic offered a group of scientists, who had worked on the Tokamak-10 unit, a contract for a very insignificant amount on the order of \$100,000.

In spite of the fact that this amount is comparable to the annual wage of one scientist in America, it was not that easy to achieve its allocation for the Russians. Government organizations of the United States—and General Atomic is under the jurisdiction of a government department in the person of the Department of Energy—have strict restrictions on contracts of this sort. In particular, according to one of the department regulations, the transfer of monetary assets outside the United States is prohibited. Specialists of General Atomic actually succeeded for the first time in breaking through—they obtained special permission of the department for the transfer of the necessary amount of dollars to Russian colleagues from the Institute of Atomic Energy.

Unfortunately, the preparation of the contract was accompanied by a very unpleasant fuss for the scientists of the Kurchatov Institute. Whether it was in order to



prove to department officials all the advantage of such a contract for the Americans or because of the desire for self-advertisement or through malicious intent, the staff members of General Atomic or, not without their help, journalists launched an extremely unflattering argument for us: The average annual wage of an American scientist is enough to pay for the labor of 115 Russian specialists. Thus, it is possible to conduct the research, which we and the Americans need, for almost next to nothing. Arguments of this sort appeared in the pages of several American newspapers. The calculation proved to be correct—if, of course, this was a calculation to obtain the permission to superior authorities to violate the instruction.

These publications caused a big scandal at the Kurchatov Institute. There was no limit to the indignation: They are buying us up for a song, and are bragging about it besides. Why be indignant? For that is how it is. Moreover, the consequences of the contract are not confined only to moral harm. The Russians and their American colleagues had fallen into another economic trap—they had become the hostages of our economic instability.

When the talks on the signing of the contract began, both parties, undoubtedly, understood all the insignificance of the amount, about which it is a question. There was no talk about a larger amount if only for the reason that on the American side the manager of one of the divisions of General Atomic conducted the talks, and his rank did not suggest the possibility of signing a contract for a larger amount. Its increase required going to managers of a higher rank. Apparently, the partners considered that there was no particular need for this, inasmuch as at that time (nearly a year ago) a contract for \$100,000, it seemed, could satisfy the interests of both parties.

The point is that the Americans proposed to conduct on the T-10 [Tokamak-10] a series of experiments, which as it is were a part of the research program of their Russian colleagues and would have been conducted by them in any case. The scientists of the Kurchatov Institute received the money and all the necessary supply for this program from their ministry and, thus, from the Russian treasury. They regarded the dollar contract merely as an addition which could make their life easier. The dollars were necessary first of all to pay for business trips of scientific associates abroad—and to this day they are going to international conferences mainly owing to this money—and, moreover, for the increases of the wage, which at that time was unprecedentedly low. Incidentally, this contract also gave rise in circles of the scientific community of upsetting rumors about a supplementary dollar payment to scientists of the Kurchatov Institute. Indeed, there was and is a supplementary payment, but only to the very limited group of associates who are conducting research within the framework of the contract, and a supplementary ruble payment (until recently, at any rate, in conformity with the legislation that was in effect).

The scientists of the Kurchatov Institute proposed to conduct the research mainly at their own expense, although the dollar support came in very handy. But the received \$100,000 were able to be support at the time when the ruble still worked somehow and had at least some purchasing power. Now, when the cost of jobs and scientific equipment and operating expenses have increased by tens of fold, our scientists and their American colleagues, who are physicists, have found themselves faced with the threat of the nonfulfillment of the contract. Now they have been forced to seek together a way out of the formed situation.

The scientists of the Kurchatov Institute drew conclusions for themselves: They rejected just as cheap a contract, which was recently offered to associates of the same department (the former department of plasma physics, now the Institute of Nuclear Fusion).

Today we can count literally on our fingers those who have learned the moral of one of Pushkin's tales—do not pursue cheapness. Americans themselves admit that they are literally flooded with proposals on the conclusion of dirt-cheap and often impracticable deals. Everyone is striving to sell something for some amount. But then they take offense and become indignant: You valued us at \$40-50 a month. Try to convince me that this is not your real price. The reputation of a bargain is like a burdock. If it sticks, you will not tear it off.

### **Military Laser Establishment Assailed as Boondoggle**

93UM0002A Moscow *NOVOYE VREMYA* in Russian  
No 26, Jun 92 pp 41-43

[Article by Leonid Mlechin and Viktor Shildyayev under rubric "Economics": "Generals Dream of a Hyperboloid: History of One Classified Establishment Which Devoured Many Billions and Will Devour Even More if Everything Remains the Same"]

[Text] Aleksey Tolstoy could not even imagine that his "Engineer Garin's Hyperboloid" would produce a lasting impression on military leaders with big stars even at the end of the century.

Even scientists' reference to objective laws of physics that prevent embodiment of the writer's fantasy was unable to overcome the magic of a book read in childhood. And people always are found who promise to make the tale a fact because it is a very profitable pursuit.

### **Combat Lasers**

For a quarter century now hundreds of millions of rubles have been allocated from the military budget each year to create a hyperboloid—a combat laser on a tracked drive.



Since 1969 tracked-drive lasers have been assigned to the Luch Central Design Bureau, which later was reorganized as the Astrofizika Scientific Production Association.

An entire city/proving ground in the forest and a scientific research complex in the desert were built for Astrofizika. The 8th Main Directorate was created in what was at that time the Ministry of the Defense Industry to provide Astrofizika with everything necessary.

From 1969 through 1989 the Association's upkeep alone cost a little over R200 million per year, not counting the astronomical expenditures for building proving grounds and test complexes.

Military-industrial complex enterprises and institutes always were in a privileged position, and Astrofizika was not refused anything at all, possibly because Nikolay Ustinov became chief designer and later the Association's general director and general designer. His father, CPSU Central Committee [CC] Politburo Member Dmitriy Ustinov, at that time was CC secretary for the defense industry and later became minister of defense.

Nikolay Ustinov began his scientific career in the Almaz Central Design Bureau, which was established at one time for the son of another Politburo member, Lavrentiy Beriia. Astrofizika associates had a rather pragmatic attitude toward their department: "Our task is to make the general [director] an Academician, Hero of Socialist Labor, and Lenin Prize laureate."

Astrofizika almost coped with these tasks. Nikolay Ustinov became an Academy of Sciences corresponding member and received a Gold Star and State Prize on a classified list—without public discussion of the work and without being published.

The title of full academician and Lenin laureate passed him by because Dmitriy Ustinov died in 1984. Soon Nikolay Ustinov had to leave the general director's chair.

Astrofizika was less successful in accomplishing other tasks.

#### It Was Ordered To Think

Studies in the area of laser detection and ranging did not produce success. The foreign satellite identification system did not work out.

Combat laser engineering was the principal direction.

In order for a laser beam to burn through, it must be narrowed and concentrated like the hyperboloid. This is possible over a short distance, and lasers are used in industry and medicine. But who needs a weapon capable of hitting the enemy at a distance of several decimeters? A laser rifle with a range of one meter....

The generals demanded a laser that was effective to the horizon, but the generals' dreams shattered against the

law of diffraction: the more they tried to concentrate and narrow the beam at the necessary distance, the more it diffused. References to laws of physics was no relief from responsibility. It was ordered to think and explore.

High salaries and honors permitted assembling superb scientists in Astrofizika. They sought and found original scientific and technological solutions. For a real scientist, the more difficult the task, the more interesting it is.

It stands to reason that all the same it is impossible to design a hyperboloid, a deadly beam weapon by which it would be possible to cut up and explode armored equipment at long range, as Aleksey Tolstoy's hero did.

They satisfied themselves with something less—disabling enemy electro-optical devices. When hit by a laser beam, optical aiming and guidance devices (of a tank, artillery piece, antitank missile system) themselves would focus the beam against their will and be put out of action.

Astrofizika scientists succeeded in creating a dozen prototypes. These were gigantic, bulky, cumbersome things on a tracked drive, extraordinarily vulnerable and unreliable.

Mock-up of tracked-drive laser



On the battlefield the enemy would be able to destroy the combat laser, produced at a cost of millions of rubles, with the very first round from a rapid-fire gun.

But as a matter of fact, the protection against them would have been even simpler and cheaper—filters worth a few kopecks on the eyepieces of optical devices used on the battlefield.

A laser weapon is not at all a dead-end direction in development of new military technologies. It was also being worked on in other concerns of the military-industrial complex for creating considerably more practical jamming systems—combat positions were illuminated by a laser, and a blinding sun appeared before the eyes of everyone who had optical devices.

In the Persian Gulf war the Americans demonstrated how else lasers can be used—in precision weapons. Laser guidance to the target ensures almost a one-hundred percent hit.

#### **Why the Military-Industrial Complex Fell in Love With the SDI**

It was obvious to Astrofizika workers from the very beginning that gigantic sums of money were being spent futilely.

After Nikolay Ustinov, the Association was headed by Doctor of Technical Sciences Boris Chemodanov, who before that was head of a chair at the Baumanskiy School, which was a rather far cry from laser physics.

Astrofizika hoped for changes which did not come. Already then the Association could have been reoriented to some degree to needs (as it was expressed at that time) of the national economy. For example, produce industrial lasers needed by the manufacturing industry. But Boris Chemodanov gambled on participating in creating a Soviet analogue of the SDI.

The calculation appeared faultless. If the Americans appropriated billions for military space, then Moscow too would do the same. Generals and directors of the military-industrial complex frightened Kremlin leaders with stories of the Americans' terrible space weapon, which had to be answered with a counterweapon.

The program for developing space lasers, generously financed from the military budget, promised a pleasant, comfortable life, although it was clear to scientists that this was the very same kind of wasteful, vain undertaking as Ustinov's tracked-drive lasers.

Politburo Member Lev Zaykov, who at that time was responsible for the defense industry in the CC, promised Astrofizika many tens of millions of rubles for space lasers.

The Association began readjusting for the new tasks and purchased equipment. But full-scale work on creating a Soviet analogue of the SDI nevertheless managed to be avoided, they did not begin ravaging the country once

and for all, and in the final account the money promised Astrofizika was not allocated.

Both millions of rubles and valuable time went into development of SDI programs which could have been used for adapting to a new life. Like many other enterprises of the military-industrial complex, Astrofizika proved unready for Yeltsin administration market reforms. As a result Astrofizika fell into a pit of debt—it got into a financial mess [literally "ran aground on the card file"—Translator note], as is customarily said.

#### **To the Bottom in the Same Boat**

Although the Ministry of the Defense Industry no longer exists, the military-industrial complex administrative-command system has not been destroyed at all.

It is not just that, as before, defense plants and institutes are forced to suckle an unnecessary, gigantic superstructure apparatus. Worst of all is that the "superstructure" does not allow enterprises to restructure to a market footing and forcibly preserves frail monsters which can only perish under market economy conditions and therefore are forced to hold onto the old system and receive budget subsidies.

Astrofizika's enormous management apparatus, auxiliary services and unique equipment going to waste create a gigantic overhead, and production is becoming non-competitive because of an exorbitantly high price.

The system of dispensing state military orders has not changed at all: it is competition not in product quality, but in connections, acquaintances, and the penetrating power of general directors.

The ferment in Astrofizika increased after August 1991. Its components realized that by remaining in the same boat they would go to the bottom, and therefore they demanded independence. A year ago Astrofizika First Deputy General Director Yuriy Kruzhilin himself admitted that "the structure of the Scientific Production Association is just as adapted to making money as a locomotive firebox." He spoke of "a collective weakened by many years of sinecure." He should have added "a collective of directors".

Anatoliy Borodachev, one of the leading Astrofizika engineers, said: "The directors were sometimes appointed to their posts not for intellect and not for abilities, but for loyal qualities."

But attempts to burst free of the pernicious system, to learn to make money themselves, to produce what is in demand and to become competitive are being suppressed.

The Granat High-Energy Laser Special Design Bureau was first to take this path. It is headed by laser physicist

Doctor of Physicomathematical Sciences Nikolay Cheburkin, a protégé of Academician Velikhov.

Its labor collective (approximately 900 persons) voted for separation from Astrofizika and for turning into an independent enterprise. There is a demand and orders for Granat's lasers, but money which now comes in goes to pay off Astrofizika's debts.

Councils of labor collectives suggested that Boris Chemodanov turn the unified Astrofizika into a voluntary association of state enterprises called "Russian Laser Center." The design bureaus and plants which were part of Astrofizika would continue to work together, helping each other, but each would receive as much as it earned.

#### The Department Looks After Its Monster

But this model did not suit the directors of Astrofizika at all. They did not wish to let go either of Granat or the other subunits, such as the Moscow Nov Electrical Machinery Plant, and they found support "on top." The Department of the Defense Industry is interested in preserving the monster in the previous form, and in uncontrolled disposition of state property.

They refer here to the need to safeguard the military-industrial complex as the highest achievement of scientific-technical thinking. President Yeltsin's April ukase "On Urgent Measures To Preserve Russian Federation Scientific-Technical Potential" also came in the nick of time.

The ukase prohibits dividing up scientific research and experimental design organizations in order to avoid "destruction of the technological unity of scientific, experimental production, and training bases." The ukase is interpreted in different ways. Heads of the military-industrial complex interpret it as a ban on fragmenting their monopolies. But this is not specifically in the ukase.

A struggle is going on over preserving the previous feeding trough and the previous opportunity to command institutes, plants and design bureaus.

Heads of the military-industrial complex are seeking salvation in coalescing with new commercial structures, but not at all in a market sense: the Moscow generals in mufti essentially are dealing in state space, disposing of state property as their own, evicting their workers from office buildings and registering figures of the Tyumen Germes Stock Exchange there.

Together with the stock exchange, Astrofizika created the Astrogermes Joint-Stock Company. It made its share payment in the form of a complex of buildings in Moscow's historical center at 22 Bolshaya Polyanka, after evicting associates of one of the subunits from there without asking the labor collective's opinion. Astrofizika received interest-free credit of three and a half million for this. But the fact is, even the simple lease of these

buildings, obtained at one time by the son of a Politburo member, would have brought the Association enormously more money.

#### Runaways Taken Off Allowance

But the military-industrial complex reorganization process is difficult to stop because labor collectives of the Scientific Production Association also are fighting for survival. The Ametist and Raduga special design bureaus already have left Astrofizika.

In the last days of April Granat nevertheless was registered as an independent state enterprise. Sanctions immediately began—they stopped paying salaries. General Director Boris Chemodanov relieved the head of Granat of his position and ordered his legal service to get Granat's registration revoked as an independent enterprise not a part of the Association. But evidently not hoping to get Granat back, he also issued another order taking the entire collective of the design bureau off "allowance," although first of course it is necessary to share fixed capital, finances and orders.

The Department of the Defense Industry is in no hurry to confirm Nikolay Cheburkin in the role of director, and without this the design bureau cannot even open its own account in the bank and work normally.

The independent Granat will not disappear if it adapts to the market: the subunits in it also must gain economic independence and even compete with each other. Medical and industrial lasers are highly valued. In addition, basic laser engineering research will continue, and scientists again will engage in fulfilling the generals' dream of the hyperboloid.

Under market economy conditions enterprises of the military-industrial complex will have to take Granat's path if they wish to survive. This means the military-industrial complex monolith must be fragmented; not destroyed, but specifically fragmented, so that each institute and plant gets its chance and adapts to the new conditions.

#### Statute on Expert Councils of State Committee for Science, VUZs

937A0004A Moscow AVTOMATIZATSIYA I SOVREMENNYE TEKHNologii in Russian No 3, Mar 92 pp 37-40

[Statute on the Head Expert Councils for Fields of Science and Technology Under the RSFSR State Committee for Science and the Higher School]

[Text] Statute on the Head Expert Councils for Fields of Science and Technology Under the RSFSR State Committee for Science and the Higher School<sup>1</sup>

#### General Provisions

1.1. The Head Expert Councils for Fields of Science and Technology (hereinafter "the Head Expert Councils")



are established under the RSFSR State Committee for Science and the Higher School (hereinafter "the RSFSR State Committee") for the purposes of enlisting the scientific and scientific pedagogical community in active participation in the evaluation of the state and the prospects of the development of the corresponding scientific directions, the conducting of a comprehensive examination of announced scientific research operations and their results, and the elaboration of recommendations on the state budget financing of republic science.

1.2. The Head Expert Councils for groups of related fields of science and technology are organized, reorganized, and dissolved by an order of the RSFSR State Committee for Science and the Higher School.

1.3. The Head Expert Council is made up of representatives of the given field of science and technology, includes within it scientists and specialists of VUZs [higher educational institutions] of the RSFSR and academic and sectorial institutes, and implements in its activity the principle of the integration of academic, VUZ, and sectorial science.

1.4. The Head Expert Council is a standing consultative body of the RSFSR State Committee and performs its work as a voluntary service and on a contractual basis in the direction and on the assignments, which are specified by the RSFSR State Committee.

1.5. In their activity the Head Expert Councils:

- are guided by the legislation, which is in effect on the territory of the RSFSR, by the decrees of the RSFSR Council of Ministers, by the decisions of the RSFSR State Committee, as well as by this Statute;
- carry out cooperation with other Head Expert Councils, the Councils for Scientific Comprehensive Programs, as well as the educational methods associations of VUZs on questions, which are of mutual interest and are within their jurisdiction;
- carry out cooperation with the sections of the scientific and the scientific and technical councils of the USSR Academy of Sciences, the RSFSR academy of sciences, the RSFSR State Committee, sectorial ministries and departments, and individual enterprises and organizations;
- proceed from the necessity of the introduction of scientific principles of the organization of republic science under the new economic conditions, the intensification of humanities and sociological research, and the elaboration of measures on the improvement of the forms of the integration of academic, VUZ, and sectorial science with social production.

1.6. The RSFSR State Committee specifies the base VUZ, under which the corresponding Head Expert Council is formed, and the procedure of the financing of the activity of this council in accordance with existing standard documents.

## 2. The Basic Tasks

2.1. The basic tasks of the Head Expert Councils are:

- the formulation of sound recommendations on the choice of the priority directions of the development of science and technology in the republic on the basis of the analysis of the state and level of the research being conducted;
- the pooling of the efforts of scientific collectives of VUZs and scientific research institutes in the elaboration of urgent problems of the scientific, social, and economic life of the republic with respect to the most important directions of development;
- the increase of the effectiveness of the use of the scientific and technical potential of the republic, the improvement of the organization and coordination of the scientific research and planning work, which is being performed at VUZs, academic and sectorial institutes, and design bureaus;
- the strengthening of the interrelations between the scientific research and the educational methods development of VUZs of the republic, the increase of the influence of scientific research work on the quality of the training of specialists;
- the specification of the priority directions of scientific research on the problems of the higher school and higher education in the republics;
- the search for new forms of the conducting of scientific research and experimental design development for the purposes of increasing the quality of the obtained results and the interest of collectives in the end results of their work;
- the promotion of the pooling of the efforts of scientists of the republic for the fulfillment of comprehensive scientific programs which contribute to the development of the economy and the productive forces of the Russian Federation and its regions;
- the promotion of the introduction of the results of completed scientific research and experimental design work in the national economy and the intensification on this basis of the integration of science, education, and production;
- the organization and conducting of all types of examination within their jurisdiction in accordance with the assignments of the RSFSR State Committee and the Russian Republic Council for Science (including basic, applied, and exploratory work, models of equipment, computer software, the consequences of economic and other activity, and so forth);
- the preparation of sound proposals, which concern the state budget financing of basic and applied research, participation in the organization of competitions of scientific research works with respect to "grants"



within the limits of the financing which is specified by the RSFSR State Committee;

- the formation of databases on the research and development being conducted, on collectives of specialists, and on potential experts of the Republic Research Scientific Consultative Examination Center;
- participation in the organization and holding of republic and all-union scientific seminars, meetings, and conferences, the promotion of the establishment and expansion of scientific ties between VUZs, scientific institutions, scientists, and specialists both in the country and abroad.

### 3. The Functions Being Performed

#### 3.1. The Head Expert Councils in conformity with the tasks assigned to them:

- study the state of the existing problems and the research and development being conducted in accordance with the type of their activity and prepare proposals which concern the prospects of the development of the corresponding fields of science;
- give scientific methods assistance to VUZs and sectorial scientific research institutes in the area of the increase of the level and effectiveness of the research and development being conducted;
- specify the priority directions of scientific research on the problems of the higher school and higher education in the republic;
- analyze the results of the scientific research and planning work, which was performed by VUZs, sectorial scientific research institutes and design bureaus, as well as joint scientific collectives which were set up on a temporary basis;
- conduct the examination of announced republic comprehensive programs and other proposed operations, the results of the conducted research, the quality of educational methods and scientific literature in accordance with the assignments of the RSFSR State Committee and the Russian Republic Council for Science;
- participate in the preparation of proposals on the formulation of republic comprehensive programs in the directions of their activity;
- participate in the elaboration of recommendations on the state budget financing of republic science;
- participate in the organization of competitions of republic scientific programs and other scientific operations in accordance with "grants" and other forms, which are provided with the necessary financial support;
- form databases on the research and development being conducted in the republic, collectives of specialists and potential experts jointly with the Republic

Research Scientific Consultative Examination Center attached to the RSFSR State Committee.

### 4. The Composition and Structure of the Head Council

4.1. The Plenum, which convenes no less often than once a year, is the highest body of the Head Expert Council. During the period between meetings of the Plenum the presidium of the Head Expert Council, which is headed by the chairman, carries out its supervision. The meetings of the presidium are held no less often than once a quarter.

There belong to the presidium of the Head Expert Council the chairman of the council, the scientific secretary of the council, the director of the sections, and other members of the council (in accordance with its decision).

4.2. Sections and permanent or temporary commissions for questions of the work of the council are established within the Head Expert Council. The number, composition, and procedure of the activity of the sections and commissions are determined by the presidium of the council.

4.3. The decisions of the Plenums, presidium, sections, and commissions of the Head Expert Council are made by an open vote, by a simple majority of votes. The decisions of the sections and commissions are approved by the presidium of the council and in instances, which require prompt consideration, by the chairman of the head expert council.

### 5. The Rights of the Head Expert Council

5.1. The Head Expert Council in conformity with this Statute and within the limits of its jurisdiction has the right:

- to obtain from higher educational institutions of the RSFSR, scientific research and experimental design institutes materials on questions of the organization of scientific and planning operations, the possible use of their results, the conducting of an examination;
- to participate in the formulation of long-range plans of the scientific research and development, which are conducted by VUZs, scientific research institutes, and design bureaus of the republic;
- to participate in the preparation of recommendations on the state budget financing of republic science;
- to submit in accordance with established procedure to the RSFSR State Committee proposals on the improvement of scientific research in the republic, as well as on the advisability of the stimulation of the participants in scientific research and experimental design work in accordance with the end results of their work;
- to conduct an examination of republic comprehensive programs and the results of completed scientific and

planning operations on a contractual basis in accordance with assignments of the RSFSR State Committee and the Russian Republic Council for Science;

—to send in accordance with established procedure to VUZs and other scientific institutions of the republic conclusions, recommendations, and proposals on questions which fall within the jurisdiction of the Head Expert Council;

—to establish business contacts with the Republic Research Scientific Consultative Examination Center of the RSFSR State Committee on the entire set of questions which are assigned to the jurisdiction of the Head Council;

—to participate in the formulation of long-range plans of the publication of educational methods and scientific literature, which reflects the achievements of modern science and contributes to the increase of the quality of the training of specialists.

## 6. The Reporting of the Head Expert Councils

6.1. The Head Expert Councils submit to the RSFSR State Committee in accordance with established procedure annual reports on their scientific organizational activity.

6.2. The checking of the activity of the Head Expert Councils is carried out by the RSFSR State Committee for Science and the Higher School.

## A List of Head Expert Councils By Fields of Science and Technology

Direction of activity of council (field of science)	Base VUZ, under which the council was established
Aircraft construction	Kazan Aviation Institute
Architecture and design	Sverdlovsk Architectural Institute
Astronomy	Leningrad State University
Biology	Leningrad State University
Geographical sciences	Saratov State University
Geodesy	Moscow Institute of Engineers of Geodesy, Aerial Photography, and Cartography
Geology and prospecting of minerals	Moscow Geological Prospecting Institute
Information science	Leningrad Electrical Engineering Institute
Information measuring equipment in radio electronics	Moscow Institute of Electronic Machine Building
History	Leningrad State University
Problems of the timber complex	Leningrad Forestry Engineering Academy
Mathematics and theoretical cybernetics	Leningrad State University
Medicine and ecology	Petrozavodsk State University
Metallurgy	Moscow Evening Metallurgical Institute

Metrology and standardization	Moscow Institute of Instrument Making
Mechanics	Leningrad State University
General and nuclear physics	Leningrad State University
Instrument making	Leningrad Institute of Aviation Instrument Making
Applied problems of radio optics, acoustoelectronics, and optical information processing	Leningrad Institute of Aviation Instrument Making
Problems of the agroindustrial complex	Mordovian State University
Psychological sciences	Leningrad State University
Radiation material science, the technology of semiconductors and electronic equipment	Moscow Institute of Electronic Machine Building
Radio physics	Nizhny Novgorod State University
Radio electronics	Leningrad Electrical Engineering Institute
Working of mineral deposits	Leningrad Mining Institute
Robotics and production automation	Leningrad State Technical University
Control systems and automation equipment	Leningrad Electrical Engineering Institute
Sociology	Leningrad State University
Machine tool building	Moscow Machine Tool Building Institute
Construction, building materials and technologies	Voronezh Construction Engineering Institute
Technology of machine building materials	Moscow Automotive Mechanics Institute
Technology of food products	Moscow Technological Institute of the Food Industry
Technology of consumer goods	Leningrad Institute of the Textile and Light Industry
Means of transportation	Moscow Automotive Mechanics Institute
Solid-state physics	Leningrad State University
Philology	Saratov State University
Philosophy	Leningrad State University
Chemical machine building	Moscow Institute of Chemical Machine Building
Chemistry and chemical technology	Leningrad Technological Institute
Economic sciences	Leningrad Finance Economics Institute
Electrical Engineering	Novocherkassk Polytechnical Institute
Power engineering	Leningrad State Technical University
Juridical sciences	Leningrad State University

## Footnote

1. Here and below in this section the names of state institutions are cited in the form in which they are given in the corresponding documents.

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